S. HRG. 100-547, PT. 1

NATIONAL AMERICAN INDIAN MUSEUM ACT

(Part 1)

JOINT HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

AND THE

COMMITTEE ON RULES AND ADMINISTRATION
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 1722

TO AUTHORIZE THE ESTABLISHMENT OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN, HEYE FOUNDATION WITHIN THE SMITHSONIAN INSTITUTION, AND TO ESTABLISH A MEMORIAL TO THE AMERICAN INDIAN, AND FOR OTHER PURPOSES

AND

S. 1723

TO AUTHORIZE THE ESTABLISHMENT OF CERTAIN REGIONAL EXHIBITION FACILITIES AS PART OF THE MUSEUM OF THE AMERICAN INDIAN, AND FOR OTHER PURPOSES

NOVEMBER 12, 1987, WASHINGTON, DC

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NATIONAL AMERICAN INDIAN MUSEUM ACT

THURSDAY, NOVEMBER 12, 1987

U.S. SENATE, SELECT COMMITTEE ON INDIAN AFFAIRS,
MEETING JOINTLY WITH THE COMMITTEE ON RULES AND ADMINISTRATION,

Washington, DC.

The committees met, pursuant to notice, at 1 p.m., in room 301, Russell Senate Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye and Stevens.

Staff Present: Patricia Zell, chief counsel; Alan Parker, staff director; Mary Little, executive assistant to staff director; Sheila Rogan, professional staff member; Joe Mentor, minority counsel; Lynn Toledo, staff assistant; James O. King, staff director; William McW. Cochrane, senior advisor; Gerald W. Siegel, chief counsel; Wayne A. Schley, minority staff director.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The hearing will please come to order.

In 1868, toward the end of the period in which this nation was engaged in conquering the Indian Nations that had traditionally occupied the territory of the United States, the Army Surgeon General, General Madison Mills, sent an order to all field officers, and I quote from that message:

> Medical officers in your department understand the importance of collecting for the Army Medical Museum specimens of Indian crania and of Indian weapons and utensils so far as they may be able to procure them. The Surgeon General is anxious that our collection of Indian crania, already quite large, should be made as complete as possible and that we should preserve, likewise, illustrations of the weapons of the fast disappearing tribes.

This directive was sent to the officers and men who were serving our national interest in the Indian wars. As a result, history shows that sacred Indian burial grounds were desecrated, recently killed Indians were stripped of their flesh, and their skulls and remains were shipped to Washington.

There is no way of knowing exactly how many skulls and bones were sent to Washington in response to this directive, obviously many hundreds, because today as the Smithsonian Institution's testimony will corroborate, of the 34,000 specimens currently in the Smithsonian's collection, approximately 42.5 percent or 14,523 of the specimens are remains of North American Indians and another 11.9 percent or 4,061 of the specimens represent Eskimo, Aleut, and Koniag populations.

When the Indian tribes of this nation learned of the Smithsonian's collection of Indian skeletal remains, they called upon the Indian Affairs Committee to develop legislation that would assure the repatriation of those remains that could be identified as being associated with a particular tribe or specific region of Indian country, and a proper resting place for those remains of native Americans that could not be so identified.

It was in response to the tribes' imperative that I began to conduct my own survey of the memorials and monuments in the nation's capital. The city of Washington is often referred to as the city of monuments. In addition to the nationally renowned monuments, such as the Washington Monument, the Lincoln Memorial, the Martin Luther King Library, the Jefferson Memorial, the Emancipation Monument, the James Madison Library, there are hundreds upon hundreds of other monuments and statues. The U.S. Capitol Building houses over 150 statues.

Each state is entitled to honor two of its most distinguished citizens and residents. It has been said that nearly every Civil War general is honored by a statue erected in a circle or intersection of Washington.

Sadly, among these hundreds of statues and monuments, there is not one to honor American Indians, the first Americans.

History records the wisdom, gallantry and leadership of many great Indian chiefs and leaders, such as Geronimo, Sitting Bull, Crazy Horse, Chief Joseph, Seattle, Manulito, just to name a few. But there are no statues or monuments in Washington, the city of monuments, to honor or remember these great Americans.

The history of American Indians has many sad and tragic chapters. One of the most tragic is that of the so-called Indian Wars, a period covering 90 years beginning in the early 1800's which left the Indian population decimated.

At the time this country began its formal relationship with the Indian Nations 200 years ago, there were at least 12 million Indians residing in the continental United States. At the end of the Indian Wars, 250,000 remained in the land that was once exclusively theirs.

During that time, the American Government systematically violated provisions of solemn treaties that recognized Indian sovereignty over their lands and began pushing and forcing Indians out of the fertile areas of the continent that they had traditionally occupied into arid, mountainous, uninhabitable regions of our country.

Pursuant to Federal policy and legislation, all Indians residing east of the Mississippi were targeted for removal west of the Mississippi. In the famous Trail of Tears the Cherokees were removed from Tennessee, Georgia, and North Carolina to the so-called Oklahoma Indian Territory. During what is known as the Long Walk, the Navajos were forced to walk from Fort Sill, OK to Fort Sumner, NM.

And when gold was discovered, the Black Hills were taken from the Sioux Tribes in violation of their 1868 treaty, an action that the U.S. Supreme Court later described as "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history."

These are just the better known examples.

Today we are here to begin a new chapter in the history of the relationship between the United States and the Indian Nations, a chapter that will begin we hope to reverse the centuries of treatment that the Indian people have suffered at the hands of those who conquered them.

Today we will consider legislation that will finally provide a resting place for those skeletal remains of North Americans that were taken from the battlefields and robbed graves to be sent to Washington. A resting place that will enable tribes to come from all over the country to assure that the spirits of their ancestors are put to rest in accordance with tribal customs and traditions.

To restore access to the proud culture and traditions of the indigenous people for future generations of Native Americans, there will be a great museum established on the National Mall that will be home to the most priceless artifacts of Indian culture, history, and art. Indians and non-Indians will be able to come to the Nation's capital to view and study these precious and sacred items so that they may know of the glorious past of Indian people and the many contributions that this country's first Americans have made to our history.

At the same time, these vast collections will be made available for exhibit in regional facilities, in Indian country, and traveling exhibits will assure that these collections come to the Indian reservations where Indian people can see them.

Earlier this year, I had an opportunity to visit the Museum of the American Indian, Heye Foundation, in New York and was appalled to see that 95 percent of what is probably the largest collection of Indian artifacts in the world is housed in a warehouse in the Bronx.

It has been said that there are over 1 million artifacts in the collection. Hundreds of pre-Columbian tomahawks, pre-Columbian arrowheads, hundreds of Navajo rugs, hundreds of Indian baskets, an unequalled collection of Indian pottery, headdresses, buffalo robes, cradles, medicine bundles, burial moccasins, wampum belts, totem poles, ceremonial dresses, spiritual masks, dugout canoes, wood carvings from the Pacific Northwest and Alaska. Whole sections of long houses. Hundreds of rare Kachina dolls and weapons of war, including the rifles of Geronimo, Sitting Bull, and Crazy Horse.

It is a priceless collection with limited space for exhibition. Invaluable sacred items that would find a place of honor in any of the world's great museums are found on shelves, in drawers, and in corrugated boxes.

I am convinced that my colleagues from New York agree that this priceless collection must be preserved. The late George Gustav Heye established this museum in 1916 and endowed the trust with a sum from which interest could be used to maintain the collection. However, the endowment was insufficient to cover the cost of the museum's operation, and during Mr. Heye's lifetime, he supplemented the endowment with personal funds.

Today the collection has doubled in size and the income from the trust of approximately $400,000 annually is not sufficient to meet the museum's annual operating costs of $1.5 million. Private financial support to supplement the museum's resources has also been

insufficient to assure that the collection can be adequately preserved.

There is concern that many priceless artifacts are approaching an irreversible state of deterioration.

The bill that we are considering today will provide a home for the collection in the Nation's capital and a substantially larger exhibition facility in New York than currently exists. Preservation of this collection will be the responsibility of the institution that is probably the most experienced and qualified in the world to care for such priceless artifacts, the Smithsonian Institution.

Under the provisions of the bill, as amended, the citizens of New York will not only finally get to see the 95 percent of the collection that is not now capable of being displayed in existing facilities, but will also have access to the equally magnificent native American collection of the Smithsonian Institution at a location that is more accessible to most New Yorkers and visitors to New York than the current facility.

I believe the time has come to honor and remember the greatness of the first Americans, their wisdom, their leadership, their valor, and their contributions to the people of the United States.

[Text of S. 1722 and S. 1723 follows:]

II

100TH CONGRESS
1ST SESSION

S. 1722

To authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1987

Mr. INOUYE (for himself, Mr. EVANS, Mr. BYRD, Mr. CRANSTON, Mr. SIMPSON, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. CONRAD, Mr. DOMENICI, Mr. GORE, Mr. GRAMM, Mr. LEVIN, Mr. MATSUNAGA, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. STAFFORD, Mr. SANFORD, Mr. SIMON, Mr. WIRTH, Mr. BOREN, and Mr. MELCHER) introduced the following bill; which was read twice and referred jointly to the Committees on Rules and Administration and the Select Committee on Indian Affairs

---

A BILL

To authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes.

TITLE I

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National American Indian Museum and Memorial Act".

SEC. 102. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to North America, specifically Indians, Eskimos, and Aleuts;

(2) although the Smithsonian Institution employs 5,500 people, operates 14 museums and galleries and 5 major research facilities, none of its institutions are devoted to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequalled assemblage of over 1,000,000 Indian art objects and artifacts and is the largest such collection in the world;

(4) the library of the Museum of the American Indian houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totalling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the transfer of the collection of the Museum of the American Indian, Heye Foundation to the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people; and

(B) provide—

(i) a meeting place for scholars,

(ii) a significant, national facility for the exhibition of Indian art and artifacts,

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for American Indian people, and

(v) traveling exhibitions to other areas of the country;

(8) approximately 300 skeletal remains of Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by orders of the Surgeon General of the United States Army and were

afterwards transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired a vast collection of Indian skeletal remains through—

(A) archaeological excavations,

(B) transfers from the United States Army of specimens collected during the Indian wars era, and

(C) donations from private individuals and museums;

(10) the existence of this collection has been estimated to contain the remains of approximately 18,000 Indians, Eskimos, and Aleuts and has concerned many Indian tribes and bands who are determined to provide an appropriate resting place for their ancestors;

(11) a national memorial should be constructed in a suitable location on the Mall in the District of Columbia for the purpose of—

(A) interring those skeletal remains presently in the custody of the Smithsonian Institution which are not suitable for scientific inquiry, giving due regard to the religious and ceremonial beliefs and practices of those Indians, Aleuts, and Eskimos whose ancestors may be included in the Smithsonian collection,

(B) commemorating and memorializing those Indian nations that have disappeared in the process of European settlement on this continent, and

(C) recognizing the Indian tribes and nations that live on their ancestral lands within the United States and acknowledging their historical contribution to American society;

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the Museum of the American Indian, Heye Foundation; and

(13) the site should also contain a memorial to inter the remains of American Indians and Alaska Natives whose tribal affiliation is not capable of identification and whose remains are also unsuited for scientific inquiry.

SEC. 103. (a) There is established within the Smithsonian Institution a living memorial to American Indian people and their traditions which shall be known as the "National Museum of the American Indian, Heye Foundation" (hereinafter referred to in the Act as the "Museum") which shall provide for—

(1) the advancement of the study of anthropology, particularly in connection with that of the aboriginal peoples of the Americans and the study of their language, literature, history, art, and life;

(2) for the collection, preservation, and exhibition of objects of artistic, historic, literary, and scientific interest related thereto; and

(3) programs of research and study.

(b) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Smithsonian Institution as the permanent site of the Museum.

(c) The Board of Regents of the Smithsonian Institution is authorized—

(1) to accept a deed or other instrument donating and transferring to the Smithsonian Institution all assets of the Museum of the American Indian, Heye Foundation established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916, in the city of New York;

(2) to prepare architectural and engineering designs, plans, and specifications, and to construct at the site specified in subsection (b) of this section a building

at least 400,000 square feet in size to house the Museum;

(3) to prepare architectural and engineering designs, plans, and specifications, and to construct at the Museum Support Center of the Smithsonian Institution in Suitland, Maryland, a building suitable for the care, conservation, and study of the collection of the National Museum of the American Indian, Heye Foundation; and

(4) to prepare architectural and engineering designs, plans, and specifications, and to construct or otherwise acquire a permanent exhibition facility in the city of New York as part of the Museum in a site as may be designated by the city of New York.

SEC. 104. (a) The identify of the Heye Foundation collection and its name and purposes shall be preserved, and the collection shall not be merged with the collection of the Smithsonian Institution.

(b) Subject to limitations expressly provided by law and, in the case of a gift, subject to applicable restrictions under the terms of such gift and provided that such gift is made upon terms and conditions that are in harmony with the purposes of the Heye Foundation deed, the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum

and accounted for separately from other funds of the Smithsonian Institution.

(c) All endowments for the benefit of the Museum of the American Indian, Heye Foundation in existence at the time of the transfer authorized in section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

SEC. 105. (a) There is established within the Smithsonian Institution a Board of Trustees to be known as the Trustees of the National Museum of the American Indian, Heye Foundation (hereinafter referred to in the Act as the "Board of Trustees"). The Board of Trustees—

(1) shall provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, operation, maintenance, and preservation of the Museum; and

(2) shall have sole authority to—

(A) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of property acquired pursuant to section 103(c)(1);

(B) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or other-

wise dispose of any property of whatever nature acquired pursuant to the provisions of this Act, provided, that the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be designated for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution;

(C) purchase, accept, borrow, or otherwise acquire additional artifacts or any other real or personal property for the National Museum of the American Indian, Heye Foundation;

(D) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of such additional artifacts or any other real or personal property;

(E) determine policy as to method of display of such artifacts contained in the Museum.

(b) The Board of Trustees shall—

(1) designate a chairman from among its members;

(2) adopt bylaws to carry out its functions;

(3) report annually to the Board of Regents on the acquisition, disposition, and display of artifacts and on other matters within its discretion; and

(4) submit an annual report to the Congress which shall include the proceedings of the Board and a full

account of the Board's financial operations for the preceding fiscal year.

(c) The initial Board of Trustees shall consist of those members of the Board of Trustees of the Museum of the American Indian, Heye Foundation who are serving as of the date of the transfer authorized under section 103(c)(1) and are willing to serve as Trustees of the National Museum of the American Indian, Heye Foundation and such others appointed by the Board of Regents for a total of 21 members, all of whom shall be appointed to serve for a 3-year term. In addition, the Secretary, and an Assistant Secretary of the Smithsonian Institution to be appointed by the Secretary, shall serve as ex officio, nonvoting members of the initial Board of Trustees.

(d) Successor members of the Board of Trustees shall be appointed by the Board of Regents. The Board of Regents shall appoint successor members to the Board of Trustees as follows—

(1) 21 members, to be selected from nominations submitted by the Board of Trustees, of whom at least 7 shall be of American Indian or Alaska Native ancestry; and

(2) the Secretary of the Smithsonian Institution, and an Assistant Secretary of the Smithsonian Institu-

tion to be appointed by the Secretary, who shall serve as ex officio, nonvoting members.

(e) Following the expiration of the term of the initial Board of Trustees, the terms of office of the successor members of the Board of Trustees shall be as designated by the Board of Regents at the time of appointment on recommendation by the Board of Trustees, and shall expire one-third at the end of 1 year, one-third at the end of 2 years, and one-third at the end of 3 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) A majority of the members of the Board of Trustees, not incuding ex officio members, shall constitute a quorum and any vacancy in the Board of Trustees shall not affect its power to function.

(g) Members of the Board of Trustees shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. (a) The Board of Regents may appoint and fix the compensation and duties of the Director, in consultation with the Board of Trustees, and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum.

(b) The Director and 2 other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

(c) All of the employees of the Museum of the American Indian, Heye Foundation who are serving on the date of the transfer authorized under section 103(c)(1) shall be offered employment by the Smithsonian Institution under its usual terms of employment and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

SEC. 107. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of collections acquired by the Board of Regents, so that Museum shall at all times be properly maintained and collections contained therein shall be exhibited regularly to the general public free of charge.

SEC. 108. (a) There is authorized to be appropriated to the Smithsonian Institution the sum of $3,000,000 in fiscal

year 1988, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this Act.

(b) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the museum building authorized in section 103(c)(2).

(c) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the building authorized in section 103(c)(3).

(d) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, or other acquisition, of a permanent exhibition facility as authorized in section 103(c)(4).

(e) Any sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

TITLE II

SEC. 201. (a) Within the structure authorized in section 103(c)(2), there shall be established a memorial to the American Indian which shall—

(1) honor and commemorate the contributions made by Indians and Alaska Natives to the United States; and

(2) provide a suitble place for the permanent disposition of certain skeletal remains, as identified in section 202 of this title, of American Indians and Alaska Natives.

(b) It is the intent of the Congress that the memorial and museum authorized in section 103(c)(2) should be completed within 5 years after the date of enactment of this Act.

SEC. 202. Before the close of the fifth fiscal year after the date of enactment of this Act, the Secretary of the Smithsonian Institution shall determine, to the fullest extent possible, the geographical and tribal origin of all skeletal remains of Indians and Alaska Natives that are under the control of the Smithsonian Institution.

SEC. 203. (a) Upon completion of the construction of the memorial authorized in section 201 of this title, the Secretary of the Smithsonian Institution shall inter in the memorial all skeletal remains of Indians and Alaska Natives under the control of the Smithsonian Institution with respect to which the Secretary of the Smithsonian Institution has submitted to the Congress a written statement certifying after comnpletion of the determinations required under section 202 of this title—

(1) that such remains—

(A) have not been identified by the Secretary of the Smithsonian as having been—

(i) associated with a specific Indian tribe or group of Alaska Natives, or

(ii) acquired from a specific archaeological or burial site, and

(B) are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives, or

(2) that—

(A) such remains have been identified by the Secretary of the Smithsonian Institution as having been associated with a specific Indian tribe or group of Alaska Natives,

(B) such tribe or group requests the interment of such remains in the memorial, and

(C) such remains are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives.

(b) The Secretary of the Smithsonian Institution shall consult with Indian tribes and groups of Alaska Natives to develop proper interment ceremonies, in accordance with Indian and Alaska Native religious practices, that shall be followed in interring skeletal remains.

SEC. 204. (a) The Board of Trustees of the Museum of the American Indian, Heye Foundation shall a establish a Board of Design for the memorial which shall consist of 7 members, a majority of whom shall be of American Indian or Alaska Native ancestry.

(b) The Board of Design is authorized to:

(1) receive designs for the memorial, and where practicable, to extend a preference to designs submitted by American Indians and Alaska Natives, and

(2) in consultation with and subject to the approval of the Board of Trustees and the Board of Regents, make a final selection from among the designs submitted.

SEC. 205. There is authorized to be appropriated for each fiscal year such sums as are necessary to carry out the provisions of title II of this Act.

SEC. 206. For the purposes of this Act—

(1) The term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as de-

fined in, or established pursuant to, the Alaska Native Claims Settlement Act), which—

(A) is recognized by the Federal Government as eligible for special programs and services provided to Indians because of their status as Indians, or

(B) was terminated by Federal law after 1940.

(4) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian, Heye Foundation.

(5) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

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II

100TH CONGRESS
1ST SESSION

S. 1723

To authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1987

Mr. BINGAMAN (for himself and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

---

A BILL

To authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "American Indian Regional Museum Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the collection of Indian art and artifacts of the Museum of the American Indian represents a genuine

national treasure that deserves to be shared by all citizens of this country;

(2) although this museum contains over 1,000,000 art objects and artifacts collected from Indian tribes throughout the United States and is the largest such collection in the world, there are no regional facilities where these artifacts can be displayed for the enjoyment and appreciation of all citizens;

(3) only 5 percent of the permanent collection of the Museum is on public display leaving the remaining 95 percent unavailable for viewing by the American public;

(4) many of these artifacts have been taken from Indian communities, and there is little opportunity for these objects to be returned to the areas from which they were collected;

(5) this denies many people the ability to appreciate the rich legacy of the American Indian and Alaskan Native heritage;

(6) additionally, there is no national interpretative or educational program to provide local schools and communities the opportunity to enjoy the significant collection; and

(7) in order to enrich our appreciation of the cultural achievements of the Indian people, it is necessary

to create a national system of regional facilities where these artifacts can be properly displayed and appreciated.

REGIONAL FACILITIES

SEC. 3. (a) At such time as the United States acquires the Museum of the American Indian, Heye Foundation, the Board of Regents of the Smithsonian Institution, in consultation and cooperation with the Secretary of the Interior, is authorized to establish, in each of the southwestern, northwestern, northeastern, and southeastern parts of the United States, and in the States of Hawaii and Alaska, a suitable facility for the purpose of using each such facility as a permanent regional exhibition facility as part of the Museum of the American Indian, and to prepare such architectural and engineering designs, plans, and specifications of such facilities as may be necessary for purposes of this Act. Each such facility shall be operated and maintained as a regional facility and as part of such Museum.

(b)(1) Each facility established pursuant to this section shall provide exhibit space for Indian artifacts as well as serve as a comprehensive interpretative and educational center that would highlight the significant historical, artistic, and cultural achievements of the Indian people of the region in which such facility is established.

(2) It shall be the function of each such facility, among others, to sponsor and coordinate a variety of traveling repre-

sentative exhibits to schools and to local communities in each region. Such exhibits shall stress the rich cultural legacy of the Indian people and increase educational awareness among citizens in each region.

ADVISORY COUNCIL

SEC. 4. The Board of Regents of the Smithsonian Institution shall appoint an Advisory Council within each region to work with the Institution to establish museum policy with respect to such regional facilities, to oversee museum curation and acquisitions for such facilities, and to provide necessary technical assistance. Each Advisory Council shall have not less than eleven members, and shall be composed of individuals knowledgeable and experienced in the Indian arts and cultures of the region in which such regional facility is established. Preference for membership on an Advisory Council shall be given to American Indians and Alaskan Natives.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. This afternoon we are pleased to have two panels of witnesses. The first panel will consist of the Honorable David C. Acheson of the Board of Regents of the Smithsonian Institution; the Honorable Robert McCormick Adams, the Secretary of the Smithsonian Institution; and the Honorable S. Dillon Ripley, Secretary Emeritus of the Smithsonian Institution.

Gentlemen, Mr. Acheson, Mr. Adams and Mr. Ripley.

STATEMENT OF HON. DAVID C. ACHESON, BOARD OF REGENTS, SMITHSONIAN INSTITUTION, WASHINGTON, DC; AND HON. ROBERT McCORMICK ADAMS, SECRETARY, SMITHSONIAN INSTITUTION, WASHINGTON, DC

Mr. ACHESON. Mr. Chairman, I have no prepared statement. I am Mr. Acheson. Secretary Adams is next to me. I am really here in the role of a supporting witness to Secretary Adams.

I would be very happy to turn the mike over to him, to answer questions, and to do whatever I can to advance a solution to this difficult but we feel amenable problem.

The CHAIRMAN. I am certain we will find a solution. I have yet to come across a problem without a solution and we will find one to this one.

Mr. Adams, it is always good to have you with us, sir.

Mr. ADAMS. Thank you, Mr. Chairman.

I have submitted a statement, the text of which I would be grateful to have included in full as part of the hearing record.

The CHAIRMAN. Without objection, so ordered.

Mr. ADAMS. In summarizing its key points I would, at the outset, state that the Smithsonian's interest in the Museum of the American Indian, Heye Foundation, is driven by a concern for the protection of that museum's resources for the nation and for the people whose history, culture and traditions are represented within them.

We have been well aware of the various proposals that have been made to the museum's board of trustees to assure protection for and accessibility to the collection and have shared the hope of many that this could be achieved in New York. However, as that has not yet transpired, it has seemed not inappropriate to give some consideration to an alternative.

Following visits to the museum in the fall of 1986 and in the spring of this year, and with the encouragement of the Smithsonian's Board of Regents, my colleagues and I discussed with the museum's trustees ways in which the two institutions could come together to make the great collection of the Heye Foundation, as well as those of the Smithsonian, significant instruments of public education for generations to come.

No one who sees the Heye Foundation collection can help but be struck by its incredible range, its depth, its richness. At the same time, however, one is appalled by its inaccessibility to the public, the scholarly community and Indian people, and fearful of the conditions under which it is maintained because, over the long term, they can only accelerate the destruction of a collection that is without parallel anywhere in the world.

The collection is so rich that it seems possible for it to form the basis of a major new museum on the Mall, at the foot of Capital

Hill, and to allow for a truly unparalleled series of traveling exhibitions for other cities, rural communities, and particularly Indian reservations and pueblos.

Training opportunities built within the museum's programs would provide access to the collection for Indian people as well as for others, while Indians working with the collection would add to the sum of our knowledge of it through their identification and interpretation of the material.

You referred earlier, Mr. Chairman, to the absence of any Indian monuments here in Washington. You then went on to refer to some of the original objects in this great collection that are, in themselves, monuments; that are, in themselves, primary artifacts of history to some of the greatest of Indian leaders. I think that forms the basis for a monument of a very special kind.

The opportunities for scholarship are myriad. It has been said that there is a century of research on the collection, a speculative statement but one that is at least of the right order of magnitude. Nor do I doubt that the most significant product of that scholarship will be comprehension and an appreciation of Indian people far removed from the distorted images that the movie makers and story writers generally have impressed upon it.

The Smithsonian pioneered Native American scholarship in the 19th century in the course of which its own substantial collections were formed. Some areas of duplication exist in the Smithsonian and the Heye Foundation collection. Nonetheless, they would complement each other well because the Heye collection has more late 19th and 20th century material, including an outstanding collection of Native American paintings.

The synergy of the two collections suggests undreamed of possibilities for exhibition, research, and demonstrations of historic and contemporary Indian culture, while their complementary qualities, each adding to the other's strength, might well inspire an exponential increase in American Indian studies.

However, the most distinguishing feature of the Smithsonian alternative is the Smithsonian itself, an essentially academic organization, enjoying broad public and private support. In this setting, the Heye Foundation collection would not be isolated, but rather would be integral to an intellectual community wherein historians, art historians, physical scientists and anthropologists, Indian and non-Indian, would use it regularly to examine questions of aesthetics, social relationships, historical development, material properties and the representation of Native Americans by others.

The national scope of such an undertaking is clearly one of its unique features. But within that framework there is a place for a special relationship with the city and state of New York, which have been the home of the Heye collection for more than seven decades. Such a relationship might take any number of forms, but three principles have persisted: the preservation of the integrity of the collection wherever it is located; its transfer in that sense, as an integral unit, to Washington; and the maintenance of an appropriate exhibition facility in New York.

To house the activities envisioned we would plan, as I mentioned earlier, to construct a building of suitable size and design for the public programs of the museum at the foot of Capitol Hill on what

has become known as the last site on The Mall. Bounded by Third Street, Independence and Maryland Avenues, Fourth Street and Jefferson Drive, the site was reserved for the future public uses of the Smithsonian by Public Law 94-74 which was approved on August 8, 1975.

We would also expect to construct an additional facility at our Museum Support Center in Suitland, MD, where objects in the collection not being used for exhibit purposes would be stored in a protective environment, available for research and undergo conservation treatment if necessary.

Given the significance of the collection, we would hope that this building might accommodate what is known in the museum field as accessible storage, so that members of the public with more than general interest in the material might have the opportunity of seeing it in an off-Mall non-exhibit setting. Space for research related activities also is likely to be included in the new structure at the Support Center.

With respect to the facility in New York, our fundamental requirement for access suggests a site that is convenient to public transportation routes and in a part of the city that regularly attracts the city's museum-going public and its visitors from elsewhere. Thereafter, the site should allow for a controlled environment; adequate exhibit space; a small auditorium for lectures, performances and films; administrative areas; visitor services such as restrooms, coat checking and a museum shop; and space for research assistance to the public that would include online bibliographic data, collection information and, in time, video displays of objects.

We would expect to operate the New York facility as a branch of the museum in Washington, in much the same manner as our Renwick Gallery operates as a branch of the National Museum of American Art. Significant exhibitions, the equal of those in Washington, would be displayed and activities related to those exhibitions, such as films and demonstrations of historic and contemporary Indian culture, would be a regular feature of its program.

Thus, through exhibitions, public programming and technology, the city would have the benefits of a world class museum without the burdens of maintaining all of the expensive and extensive museum functions that must necessarily support these activities. Furthermore, this approach assures that the Heye Foundation collection, as well as that of the Smithsonian, would be accessible to New Yorkers in ways that heretofore have been impossible.

There are, of course, costs associated with all these activities. While funds have not been available to do even preliminary studies of new projects, limited work by our staff suggests that the cost of the two buildings in the Washington area may amount to $100 million, allowing $75 million for the Mall museum and $25 million for the Support Center structure.

A second category of costs focuses on providing equipment for and moving people and objects into the new construction and for installing the initial exhibits. The cost of these activities is estimated at $14 million.

While these first two categories represent one-time costs, the third and fourth are annual items: program and building operation

costs. Program costs are those associated with museum administration and traditional museum functions: collecting, caring for and conserving objects; conducting research on and interpreting them; publishing and/or exhibiting the results of that research; and providing related public programming that further illuminates the themes of research and exhibition.

The National Museum of the American Indian would be, in many respects, analogous to, although smaller than, the Smithsonian's National Museum of American History. Hence, it may be instructive to examine a recent budget of the latter. In Fiscal Year 1987 the American History Museum had available to it approximately $13.4 million from the Institution's Federal appropriations and $2.8 million from Smithsonian trust funds and other sources, such as fund-raising activities.

Building operation costs are those related to security, custodial services, maintenance and utilities. Until the new museum building is designed and full information is available on space layout, including the size and configuration of exhibit galleries and other public areas, it is impossible to forecast building costs. However, in Fiscal Year 1987 these costs for the American History Museum were $4.1 million.

Costs associated with the facility in New York would be driven primarily by the site that is selected. Until that is done, and we would expect to make a selection in consultation with public officials and community representatives, and the program I have described adapted to the site, supportable estimates cannot be provided.

In an era when the need to reduce Federal deficits is urgent, costs such as those I have outlined and which must be adjusted to reflect more accurately out year expenses, are certainly not inconsequential. They must be weighed not only in the light of the Federal budget but also in the light of an extraordinary opportunity to preserve a collection of monumental significance, make it more accessible to the public than it ever has been, and to share it fully with those whose ancestors created the objects within it.

For the reasons outlined in my letters to the committee of November 10, 1987, the Smithsonian is opposed to title II of S. 1722. Although we certainly are sensitive to the interests of native people in our collection of human skeletal remains and, insofar as it is possible to do so are seeking to accommodate those interests, we are also concerned about the misinformation and misunderstanding concerning that collection.

Thus, I have included in the statement I submitted earlier an extensive discussion of the nature and the reasons for the continued maintenance of the collection of human skeletal remains at the Smithsonian's National Museum of Natural History.

As a matter of policy, I should point out that the Smithsonian recognizes that descendants have an unquestionable claim on the remains of their known ancestors in that collection. We are actively engaged in an identification process that will, over the next few months, have us turn to tribal organizations for assistance in locating descendants of the people with whose remains we have been entrusted until they can be located.

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However, I do not want to minimize the time and patience required to do this job as accurately as possible.

At the same time, there is also plausibility to the claims of science. Only the analysis of these specimens with marvelous new laboratory techniques that are being introduced more and more rapidly holds out the promise of tracing the exact derivation of recent groups from their more remote ancestors. The difficulties multiply as we shade off from certainty into uncertainty. At what point do the claims of possible descent weaken until the claims of the advancement of scientific knowledge outweigh them?

As Secretary of the Smithsonian I am not empowered to surrender national collections to individuals who claim but cannot demonstrate their legal standing as descendants. Ultimately this may force all of us to recognize a common interest in a legislative solution. But a hasty and premature effort to take this course is likely to be made ineffective by the inherent complexity of the issues to be resolved and by grave Constitutional obstacles.

It would seem to be a better approach to proceed by negotiation, beginning with the easier cases and proceeding to the more difficult ones. Somewhere in this process, I would hope that clarifying principles might emerge on which there would be a high degree of consensus.

In conclusion, Mr. Chairman, let me say that we are well aware of the wide range of approaches to the issues associated with the collection of the Museum of the American Indian, Heye Foundation, and with our collection of human skeletal remains. It seems highly unlikely that any single statement of policy or enactment of legislation can, or indeed should, address and resolve all of them.

Nevertheless, you may be certain of our willingness to participate as we are already doing in a number of instances, in efforts to determine and, insofar as it is possible to do so, to accommodate public policy interests.

Mr. Chairman, I am glad to respond to any questions that you and other members of the committee may have.

[Prepared statement of Mr. Adams appears in the appendix.]

The CHAIRMAN. I thank you very much.

I must return to the Floor to respond to a vote, but I will be right back. We will stand in recess for 10 minutes.

[Recess.]

The CHAIRMAN. The hearing will please come to order.

A few days ago the New York Congressional delegation, together with city and state officials of the state of New York gathered together to discuss this matter. I gather, from media reports, that certain conclusions were reached.

We have just received a letter from the Congressional delegation. I received a call from Mayor Koch. And I assured the mayor that we stand ready to cooperate in every sense possible to bring about a realization of this museum.

I do not suppose that you have received a formal letter from the state and city of New York, have you sir?

Mr. ACHESON. No, Mr. Chairman, we have not. I was given, and I do have with me, a copy of a mimeographed statement that was circulated that came out of some meeting of the New York delega-

tion, I believe, but I have not seen Senator Moynihan's letter nor has there been any communication from the city of New York.

The CHAIRMAN. I would suggest that we, the Smithsonian, the Heye Foundation Board of Directors and museum officials, the city and state officials, plus some of us here on the Indian Affairs Committee, should get together at some early date to discuss this. You will not mind doing that, sir?

Mr. ADAMS. We would be delighted to do that.

There has been a preliminary meeting between two senior members of my staff, the Assistant Secretary for Museums and my special assistant, and representatives of the mayor's office in New York. It was a very cordial preliminary meeting and, of course, we are prepared to meet further with anyone who has a relevant interest in this matter.

The CHAIRMAN. I will try to get all parties together at a convenient time, hopefully before the end of this year, and begin our discussions on this matter.

In your written statement, you suggest that the Administration does not support the provisions of the bill authorizing appropriations for construction of the facilities you have described on the grounds that it is appropriate and feasible for private sources to bear those costs. What is your personal opinion of that feasibility?

Mr. ADAMS. Well, I think that formal position on the part of the Office of Management and Budget is certainly understandable in the present climate of deep concern about the deficit. I think it is premature to make any firm prognostication about how well one might succeed with fund-raising on behalf of this.

I do know that there have been a great many volunteered statements to me, as the issue of the possibility of a museum here has appeared from time to time in the press, suggesting that there is a very wide basis of interest and concern and support that could be found nationally for it.

I guess the general position that I would suggest is that if this were a national facility that was here in Washington, as part of this absolutely unparalleled array of museums, the possibility of raising funds privately ought to be better than they would be anywhere else, although I am not an expert in what can be done in New York city itself. So perhaps I should not venture too far in that direction.

It seems to me that there are perhaps several parts of the answer that could be disaggregated from one another. I think it would be quite difficult to raise private funds for the support structure that we contemplate in Maryland. That would be part of a series of structures out there that form our Museum Support Center, and the others have all been paid for with Federal funds.

While that building is absolutely vital and would be a center of very important research and curation, I think it would be hard to raise that amount of money which was listed in our testimony as $25 million. It would be hard to raise that privately.

I have no doubt that we could make a very substantial contribution toward the cost of the museum on the Mall if that is the way that things turn out, but I think it would be premature to go further than that.

I should perhaps say that we have made no provision for what the cost would be in New York because there are such uncertainties as to where the museum would be located and whether there would be costs associated with it there, and so on, so that we have no estimate at all that we think we can provide at this time on the cost of the facility in New York.

The CHAIRMAN. You have indicated that you cannot support Title II, and this is the title relating to skeletal remains. According to your information, we have approximately 14,000 skeletal remains of American Indians residing in the continental United States and about 4,000 from Native Americans in Alaska.

Is it your contention that of the 18,000 there are none that can be set aside for Title II purposes?

Mr. ADAMS. Mr. Chairman, I certainly would not want to venture any number, but I would have to say that it is an unreasonably rigid position to say that all of those remains are of equivalent scientific value. I think we would need to examine the collection very closely if that were the final determination of legislation that was reached here, as to what the Smithsonian could do to meet such a determination.

But I think it is obvious to anyone that some of those individual skeletons are very poorly documented or are in such a deteriorated condition that their scientific use is less than others, let us say. But we would have to approach that question on the basis of research that has not been done; but I would think it very likely that we would find it possible to make some accommodation if needed.

The CHAIRMAN. I have no doubt that there are many skeletal remains that have special archeological value, especially those of ancient times. But I find it difficult to believe that those which were acquired in the last century have that archeological or anthropological value.

I would think that if skeletal remains were acquired as a result of digging up graves, if they were Indian remains, it was considered anthropology. For others that would be grave robbing, would it not?

Mr. ADAMS. Mr. Chairman, I certainly will not defend the retention of any of the skeletons that were obtained by illegitimate means. The question that we would then face, in some cases, is how to dispose of those skeletons unless someone comes forward who can claim them.

But apart from that, let me make one other point which I do not think should be lost sight of. The skeletons that date to the last century may, at the moment, be impossible to assign to any particular tribal group because research in the field has not proceeded to the point where that is possible.

On the other hand, work is now underway on obtaining genetic assessments from skeletal materials and it is not at all impossible, one might even say it is rather likely, that within some years it will be possible to say that these skeletons are, in all likelihood, from this or that tribal group.

To lose any possibility of making those determinations is obviously something that would be a loss to the descendants of those individuals and also to the development of the history of Native Americans.

The CHAIRMAN. Since we are not prepared at this time to appropriately discuss the New York proposal, we will have to keep that to another day. May I now call on my colleague from Alaska, Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman. I am sorry to have been delayed. I got caught with a phone call just as we both left the floor.

I do not have any questions of these two witnesses. Thank you very much.

The CHAIRMAN. Without objection, I have a letter here addressed to the Chairman of the Select Committee on Indian Affairs, the Honorable Daniel K. Inouye. Without objection, that letter from the Smithsonian Institution will be made part of the record.

[The information of Chairman Inouye appears in the appendix.]

The CHAIRMAN. Mr. Acheson, Mr. Adams, I thank you very much. I appreciate it.

Our next panel consists of the chairperson of the Board of Trustees, Museum of the American Indian, Heye Foundation, Mrs. Wilmot H. Kidd III; the executive director of the Museum of the American Indian, Heye Foundation, Dr. Roland Force; a member of the Board of Directors of the Museum of the American Indian, Heye Foundation, Ms. Suzan Harjo; the attorney for the Museum of the American Indian, Heye Foundation, Mr. Edward Costikyan; and from my State, from the beloved Island of Kaua'i, Ms. Buffy Saint Marie.

STATEMENT OF WILMOT H. KIDD III, CHAIRPERSON, BOARD OF TRUSTEES, MUSEUM OF THE AMERICAN INDIAN, HEYE FOUNDATION, NEW YORK

Ms. KIDD. Thank you, Mr. Chairman.

Before we open our oral presentation, I would like to introduce, for all of you, a 4 minute film which is a condensation of one called Legacy In Limbo that was produced in 1986 by the Public Broadcasting Service in Rochester, NY, to give the background of the museum. This will tell, in pictures, what we will be trying to convey in words.

The narrator of this film is Buffy Saint Marie and we would like you to see it.

The CHAIRMAN. May I request that the TV lights be turned off temporarily while the film is on? We cannot see the screen. Thank you very much.

The NARRATOR. The Museum of the American Indian is located in a four story neo-classical building at 155 Street and Broadway just north of Harlem in New York City. Inside are the treasures of a hemisphere, the legacies of hundreds of Indian nations and cultures.

The collection is valued at more than $1 billion but it is priceless, really. The artifacts could never be replaced. The scope of the collection is staggering, from A to Z, Aztec to Zuni, and from 14,000 years ago to the present.

The immensity of this collection sets it apart and above all others, but it is also the museum's biggest problem. 46,000 items are crammed into this 15,000 square feet of display area. The re-

mainder of the 1 million objects are locked in a storage facility 12 miles away in the Bronx, where the public is not invited. Inside, priceless artifacts are virtually piled one on top of another from floor to ceiling. The museum has simply run out of room.

Further complicating matters the museum's library is in yet a third location. The research branch is actually a warehouse. It looks like a department store's bargain basement of Indian artifacts, except every one of the million artifacts is a treasure, a piece of the puzzle that is the American Indian heritage.

Locked away in climate controlled vaults are an amazing array of priceless objects whose origins stretch from Alaska and Greenland to the southernmost tip of South America.

The research branch is simply overwhelming. It is numbing. For example, there are thousands of moccasins, adult moccasins and children's moccasins, from the most ornate to the very simple. There are 300 pairs from the Cheyenne Tribe, alone. There are thousands of masks from the Kuakulo of the northwest coast to Mexican jaguar masks.

You can literally open any drawer or pick up any specimen and find a treasure that has historical significance or gives some insight into how the original people of this hemisphere lived and survived.

When the curators prepare exhibits they have to conduct an exhaustive search of the artifacts and the supporting literature. But the museum library is a long drive from both the gallery and the research branch.

The library contains 40,000 items, including books, journals and current Indian newspapers.

George Heye was not much interested in books about Indians. He only wanted actual artifacts. But some of his staff members convinced him it was necessary to have an appropriate library to compliment the artifacts.

While each of the major museums in New York attract about 40,000 visitors every week, the Museum of the American Indian is lucky to get 40,000 visitors in an entire year and it is not hard to figure out why.

The Metropolitan Museum of Art, the Whitney, Guggenheim, Cooper-Hewitt Museum and several others are all located along what is known as Museum Mile, stretching from about 75th to 95th Street. This is one of New York's most exclusive neighborhoods on Fifth Avenue along the east side of Central Park. Bus and subway access is easy and it is a safe, clean neighborhood.

By contrast, the Museum of the American Indian is virtually alone as a cultural institution in upper Manhattan. It is a long subway ride from the glamorous museums downtown and then you are left three blocks from the museum in a run down, high crime neighborhood.

Mr. BUSH. Part of what we have been trying to explain to the museum is that they suffer in the way we have suffered as a people because of our identity.

Ms. KIDD. Thank you.

The CHAIRMAN. Thank you very much.

Ms. KIDD. As Chairman of the Board of the Museum of the American Indian, Heye Foundation, I am most grateful to have

this opportunity to set before you the plight and the glory of the Museum of the American Indian and to express our support for the solution offered by Senator Inouye's bill.

The Museum of the American Indian contains, unbelievably, close to one million objects of cultural, artistic, archeological and historic significance in an assemblage which can never be duplicated. This remarkable collection desperately needs a new home.

The museum's inconvenient and outdated facilities contain only one-quarter of the space needed to adequately conserve, display, and study this collection. Only one-quarter of the space needed. A parallel to this would be attempting to squeeze a size ten foot into a size 2.5 shoe. It can hardly even be accomplished.

But why should the plight of this one museum be your concern with all the weighty problems of this nation and the world set before you? The answer is that this museum holds in trust not just another fine collection, but a unique, priceless, unparalleled collection which embodies and exemplifies the entire history and cultural heritage of great peoples, the indigenous peoples of this hemisphere, the native Americans of North, South, and Central America.

Thus, this collection is not only a national treasure, but an international one as well. Hundreds of Indian nations now within the borders of the United States are represented in depth as well as the Indian peoples of the rest of this hemisphere, the Arctic Eskimos, the Incas, the Aztecs, the Mayans, the Amazon forest peoples, peoples of the Caribbean, Peru, and the extinct tribes of Tierra del Fuego, to name just a few.

Further, the collection contains every type of object produced by these fascinating cultures from the ornamental and the ceremonial to the utilitarian. There are numerous objects of exquisite beauty, delicacy and refinement, some of which took a lifetime to create; objects of simple every day use imbued with elegance and spirit; objects no larger than a small pebble to huge totem poles five tons in weight and 40 feet high; objects 9,000 years old to objects of contemporary times.

Thus, a story of tremendous significance unfolds before the beholder, the scholar and Indians themselves. This collection is as significant to Native Americans as the Elgin marbles and the Parthenon are to the Greeks; as the Museum of Chinese History and the Forbidden City are to the Chinese; as the pyramids and their contents are to the Egyptians.

That is why it is appropriate that this august body do what it can to ensure that this collection can be properly preserved, adequately researched and widely viewed. This priceless treasure left to the world by George G. Heye can be our window not only to the past but also to the present and the future, a bridge to these complex cultures which have never been adequately understood or appreciated, a tool of learning and understanding for people everywhere.

The mandate of the Board of Trustees of this museum is to ensure that this great collection be properly preserved, displayed and studied not only for the foreseeable future, but into the distant future as well. It is our fiduciary responsibility to search out a proper solution to the plight of this museum and to find not only

an adequate solution both one which maximizes the opportunity of achieving the goals established by the founder of this museum 81 years ago.

It is in this spirit that we appear before you today and it is in this spirit that we support Senator Inouye's proposal.

The trustees of the museum believe that the Inouye proposal serves the best interests of Native Americans, the museum, the people of New York, the Nation as a whole and, in so doing, the wishes of the founder as well. It offers a desirable solution to the museum's problems by providing the space and resources so desperately needed.

Relocation to the Mall would make the museum's exquisite collection available for millions of people to see. In addition, the legislation will greatly benefit New York by providing the New York viewing public with a federally funded museum facility containing far more exhibition space than now exists in the museum's present facilities.

Finally, the legislation also represents an opportunity to ensure that the museum becomes an enduring national institution and a permanent tribute, in the heart of both the nation's capital and its largest city, to the heritage and living cultures of the Native American people of this Nation and hemisphere.

Such an amalgamation of interests served and goals accomplished should greatly please us all.

I would just like to add, I hope I have not belabored the point of the greatness of this collection. If I have, it is in an effort to set this issue right where it should be because it is the nature of this collection that we are here to determine and its final destiny, and not to get bogged down in the details of the situation. I hope that we can all keep in mind what the very important basic nature of what we are discussing is.

Thank you.

[Prepared statement of Ms. Kidd appears in the appendix.]

The CHAIRMAN. Thank you very much, Mrs. Kidd.

Dr. Force.

STATEMENT OF DR. ROLAND FORCE, EXECUTIVE DIRECTOR, MUSUEM OF THE AMERICAN INDIAN, HEYE FOUNDATION, NEW YORK

Mr. FORCE. Mr. Chairman, I am pleased to add my remarks to those of Mrs. Kidd's. After her comments, after those of Secretary Adams, and those included by Ms. Saint Marie in terms of the film, I do not want to be redundant and I do not want to overstress, anymore than Mrs. Kidd does, the value of this collection.

I have prepared comments which are submitted to the committee. I will not read those. I would like to simply hit a few high spots for you.

There has been some discussion over value of this collection, estimates of how valuable it is. In our culture it is commonplace for people to ask about monetary value. But this collection's value goes far beyond monetary value. It is true, it is worth billions. It could never be created again.

When something is truly priceless, you have to assume that there are other kinds of values, values to Indian people, values to our society in general, educational values, research values.

I read in this morning's paper about a record sale of a Van Gogh painting, something like $59 million for one work of art by a famous painter. Can we make a comparison with the value that we might attribute to the workmanship and the artisanship of countless numbers of Indian artists, items that are included in this great collection? I think that is a legitimate thing for us to consider.

I think we can concede that this is one of the most valuable resources anywhere. To make an assessment of this collection, all you have to do is ask any anthropologist who is aware of it. There are many people outside the field of anthropology also who would attest to this.

It is also true that it is unsuitably housed in inadequate structures that are remotely located. I will not dwell about their antiquated nature. I would simply ask you, Mr. Chairman, and anyone else at hearing how satisfied they would be to go into a 1916 era operating room and put your life in the hands of those who were operating in 1916 with the state of knowledge at that time and with the equipment that was available.

The Museum of the American Indian is operating in a 1916 operating room. We have low visitation. When we have undertaken to put exhibits in other prominent locations we have had excellent reactions. We have even taken an exhibit to the People's Republic of China and broke all records at the National Museum of History in Beijing and again in Shanghai.

In just a few days an exhibit will open at the Field Museum in Chicago. An exhibit of dolls, it is a complete exhibit that was organized and created by the Museum of the American Indian. It opened in Kansas City a year and a half ago. It finished a three month run in Miami about a month ago. It will be in Chicago for a period and then it will move to Phoenix before coming back to New York.

We should be doing more of this sort of thing. We simply are unable to afford to do it.

We have also just returned a small exhibit of paintings from three Indian museums in the state of Oklahoma, the work of a Shawnee artist. His work had not been seen by other Shawnee in that state.

One needs space to do this sort of thing. One needs staff to do this sort of thing. One needs the right budget to do this sort of thing. While the trustees and staff of the museum have done a great deal to improve our situation, creating climate controlled areas for the storage of the collection, improving our methods, our techniques our procedures, whatever we have done has not been enough and we realize that.

Relocation to Washington, on the Mall, would provide a prominence that would be unbelievable. It would provide for a great exposure of this great resource to this nation as never before possible.

This is a national treasure, Mr. Chairman, and it needs to be secured for the nation. The Smithsonian has the experience. It has the reputation. It also has a long history of association with individuals who formed great collections. The names Mellon, Freer,

Hirshhorn, Sackler are a part of the Smithsonian, a part of our nation. I think George Heye's name would be an appropriate one to add to that list.

Certainly, as the Secretary pointed out, there is the matter of cost. We are all aware of the expense that is required to operate a first class institution. Museum's are expensive. So is any part of our educational system.

We cannot say, simply because we face a deficit crisis in our nation, that we can afford to overlook the education of our children.

I would say simply in closing, Mr. Chairman, that some might say that we could not afford to do what this legislation propose be done. My reaction would be that we cannot afford as a nation not to do it.

Thank you very much.

[Prepared statement of Mr. Force appears in the appendix.]

The CHAIRMAN. Thank you very much. Mr. Costikyan.

STATEMENT OF EDWARD COSTIKYAN, ATTORNEY, MUSEUM OF THE AMERICAN INDIANS, HEYE FOUNDATION, NEW YORK

Mr. COSTIKYAN. Thank you, Mr. Chairman. I have been asked to address the legal issues which underlie the problems of locating the museum, and I am glad to do so. There is an awful lot of misinformation floating around about the law and the facts.

About 1 week ago, a New York editorial writer wrote quite erroneously, and I will quote it, that George Gustav Heye's will specified that the collection was to be available "for the enjoyment and study of New Yorkers." And that appears to be the premise of a lot of the argumentation as to whether it can leave New York, or put part of it outside New York.

But Mr. Chairman, there is no such will. And there is no such language in the document creating the museum. The museum was created by a trust agreement in 1916 which established it and set forth its nature, objects and purposes. And nowhere in that document is there any language of any kind from which it can be implied that the collection was intended by Mr. Heye to be a gift to the people of the State of New York alone, or indeed at all, or to be "available for their enjoyment and study."

Rather, the document is clear that the purpose and object of the museum is the "collection, preservation, study and exhibition of all things connected with the anthropology of the original people of the Americas." And the only reference to the State of New York in the body of the document is one that says that the trustees shall provide means for encouraging and carrying out the work of collection, preservation, study and exhibition in the State of New York.

Now at the time that Mr. H. Ross Perot responded to a plea for help and offered $70 million if the museum would relocate to the State of Texas, the trustees decided to ascertain from the courts of the State of New York whether they could accept that offer.

I should say that the court we go to initially in New York is called the Supreme Court. That is a little different from everywhere else. But it is not the supreme court at all. It is the lowest

court of general jurisdiction, and that is the first court you go to, and that is where we went, and that is where we are.

We filed a petition in that court seeking instructions from the court as to our rights and obligations in connection with that offer. Now I know that it has been suggested and stated repeatedly that under no circumstances has the museum the right to remove its main facilities from the State of New York. And this is simply not so.

It has always been the law of the State of New York that when a charity cannot carry out its primary objectives within the State and can carry them out elsewhere, the court will relieve the charity of the obligation to remain in New York State, even where the trust instrument expressly says it should be done in New York.

Other similarly situated charities have been permitted to leave. Some of you may have heard of Snug Harbor, a home for seamen which used to be on Staten Island; was there for over 100 years, I think. It was allowed to move to North Carolina with the approval of the court, and I believe over the objection of the Attorney General. And the former neighbor of the Museum of the American Indian, the American Geographic Society, whose collection was transferred to the University of Wisconsin some years ago, did so with the approval of the court and over at least the initial objections of the attorney general.

So it is clear that under New York law, when a charitable trust languishes in its original locale, even though the trust instrument says you should stay in that locale, the court has the power and is required to exercise it, to give the charity permission to relocate out of the State. The section involved is Section 8-1.1 of our State's E stars powers and trusts law, which I will not summarize. But it is quite clear that if you cannot carry out all the objectives of the trust, the court has the power to relieve you of those you cannot observe and let you go elsewhere if that is the way to carry out the principal objectives.

Now the New York courts have already ruled on this issue as to this museum in this circumstance. Because after we filed our petition, the attorney general made a motion to dismiss our petition on the ground that if everything we said was true, we still could not leave the State because the trust had the language about providing means within the State for carrying out the objectives.

The court denied that motion, thus finding what the law was. The court recognized, and I quote, "There is no substantial dispute that the present physical sites of the museum are inadequate for museum purposes." And he found that the museum, "cannot remain in its present situation and survive." And he concluded, "it must be as obvious to the litigants as it is to the court, that it was not the intention of the founder of the museum to allow this museum to perish rather than be removed to another State."

What has happened since then is that Mr. Perot withdrew his offer in the expectation that the Custom House would be available. What happened was, the Custom House alternative was not available, as we were advised by Senator Moynihan in March or April of this year. And what happened was that Senator Inouye and the Smithsonian expressed an interest.

And we have gone back to the court and said, we have an alternative outside the State, and we want you to make a determination in due course as to whether we can accept it. The judge made it clear, although he has not ruled on that, that he did not intend to walk away from the museum or from the problem, and that he regarded it as his duty under the statute to help us find a solution to these problems.

Now in these circumstances, Mr. Chairman, in our opinion, the Smithsonian option with the substantial New York museum facility as proposed in the bill should receive favorable judicial approval by the New York State Supreme Court. As Judge Stecher has said, the present physical sites of the museum are inadequate. The museum cannot remain in its present situation and survive. And it was not the intention of Mr. Heye to allow this museum to perish rather than be removed to another State.

In addition, Mr. Chairman, retaining a substantial museum in New York along the lines described by Mr. Adams, and relocating the museum's remaining facilities to the mall would, in our view, satisfy the trust obligations without requiring the judicial relief which we initially sought of asking to be excused of the New York requirement.

I say so because such a facility in the Custom House, or in any other place in New York, would, and I am quoting the language of the trust agreement, provide "means for encouraging and carrying on the aforementioned work of collecting, preserving, studying and exhibiting all things connected with the anthropology of Native Americans within the state of New York." And I think we would be in literal compliance with the trust instrument so long as we provided a substantial museum facility, and that is what I understand S. 1722 calls for.

Finally on this point, Mr. Chairman, when it becomes clear what S. 1722 will actually provide, it is appropriate and we intend to return to Judge Stecher to lay the proposal before him, and to seek judicial approval of the transaction as soon as it is ripe for his action.

If I may, Mr. Chairman, I would like to comment on two other things. One is the New York proposal which came to our attention—I think we got the letter yesterday. And while it is premature for us to respond in detail to it, and the board has not had an opportunity to look at it, I think a few preliminary comments might be appropriate.

I should note that under that proposal, there does not appear to be any provision whatever for funding the New York facility. I found that surprising because I understood that you, Mr. Chairman, had suggested at some point that the funding be a Federal obligation. And I understood there was objection to the Federal participation. And I expected to see something in there about New York paying the cost part, but there is nothing about costs at all.

In addition, there is no time limit on the bankruptcy court's occupancy of the Custom House, as there was in the original Moynihan bill. And what that means for us is that for the indefinite future, two-sevenths of that building, or over one-quarter of it, would not be available for museum use. And what that translates

into is one-half of the collection not being houseable at that site, and presumably remaining in the east Bronx.

Now we were once willing to accept a five-year occupancy of the bankruptcy court because we anticipated a phased move-in. But that had a terminal date of 1992, and without that kind of a phased move-in and a limitation, the maintenance of the collection in two separate locations is probably the worst of all possible worlds.

In addition, the funding of the Custom House, funding of the 155th Street facility, the maintenance of half of the collection in the east Bronx, and maintenance of half of it at the Custom House presents funding problems which this museum and this board really cannot manage under foreseeable circumstances.

Nevertheless, I think it should be clear that, in my view, the New York suggestion is one worthy of exploration and it could be part of a satisfactory solution in consonance with the principal intent of the legislation.

Finally, I understand that a suggestion has been renewed that the Museum of Natural History in New York is an appropriate place for the Museum of the American Indian to make its home. I will merely comment that efforts to reach agreement with that institution took place over a four-year period ending in 1985, and the efforts were unsuccessful for four basic and insurmountable reasons.

The most important is the space which the Museum of Natural History was able and willing to make available, was at most 62 percent of what is needed.

Second, the Museum of Natural History insisted on a scheme of governance which would have ended the Museum of the American Indian's separate and independent existence, and integrated it into the Museum of Natural History contrary to the express written desires and wishes of Mr. Heye in two letters, one written in 1904 and the other in 1916, which our archives fortunately contained and in which he made it quite clear the last thing he wanted was to see his collection in the Museum of Natural History.

Third, we understand—I have been advised by my client—that Native Americans find offensive and strongly oppose treating their heritage as part of a museum of natural history, and we must defer to that.

And finally, I may say it is highly doubtful that the west side of New York, which contains a lot of people who are very active about preserving their environment, would tolerate the use of park land, which is where the new structure was to have been built, for any use except as a park.

That, Mr. Chairman, is the legal situation. I can only add that time is of the essence for us. The longer the problem remains unresolved, the more difficult it becomes for the trustees to continue to raise the funds to carry out their duties. And we welcome S. 1722, and we hope to go back to court soon to get an answer as to its consistencies with the obligations of the trustees under the New York trust.

[Prepared statement of Mr. Costikyan appears in the appendix.]

The CHAIRMAN. Thank you very much. Ms. Harjo.

STATEMENT OF SUZAN HARJO, BOARD OF TRUSTEES, MUSEUM OF THE AMERICAN INDIAN, HEYE FOUNDATION, NEW YORK

Ms. HARJO. Thank you, Mr. Chairman and Senator Stevens.

In the interest of full disclosure, I should say that I am also the director of the National Congress of American Indians and I am appearing here today as the Indian issues chairperson for the trustees for the Museum of the American Indian. Our National Congress of American Indians' statement and testimony will be presented on the 18th, and we will respond in great detail to the position of the Smithsonian Institution and to the legislation itself.

As you know, Mr. Chairman, the National Congress of American Indians fully supports the museum legislation and alternative that you have introduced and sponsored, and our membership has called for that. I bring that message to the other trustees in my capacity on the board because, everywhere I travel, and I am sure this is true of you and your staff members, the Indian people want this collection in Washington on The Mall, and want to have say-so about the collection, want to have a monument, a living monument to Indian people past and present, and Indian nations past and present, and want to have something that suggests that we, indeed, have a future as Indian people.

The collection of the Museum of the American Indian, yes, is priceless. It belongs to the Indian people and, as trustees, we have an obligation to preserve it with that in mind.

We, as Indian people do have objection to being among the flora and fauna of the natural history museum, as we would to being placed in that way in the Smithsonian Institution. That is not because we see it as demeaning to have our relations around us, for we are all interrelated, and the Creation does not stop with human beings. But, it means something to the rest of the world to have us next to the elephants and the dinosaurs, as things past and things not quite human.

We have an opportunity to change that view, to take Indians out of anthropology, to take Indians out of archeology, to put us where we belong as people who have developed in wonderful artistic ways and in wonderful functional ways, and to put that view forward and show the world what Indian people can bring to the world and have contributed so far.

This merger has the potential for bringing the Smithsonian Institution into this century and into the realization that Indian people are living today and have a future. It has the potential for saving the collection that is in our trust in the Museum of the American Indian. And, it presents a key to changing the general dehumanization, cartooning, stereotyping of Indian peoples which have led to the racism and organized anti-Indian violence which is occurring in the shadows of American society today.

We need a healing process in this country. That healing process will not take place until the skeletons in the national closet are laid to rest—and I mean that quite literally.

We have a constitutional issue that we are going to have to come head to head with about Section II—and I say this as an individual Cheyenne woman right now. Nowhere in the Constitution does it guarantee the scientific right of anthropologists and archaeologists

to study Indian remains. It does talk about religious freedom. And, the collection and display of human skeletal remains is violative of our religious freedom. This is something we take quite seriously.

I cannot even add to, let alone improve the statement you made at the outset, Mr. Chairman. And, I think that America needs to hear that statement. People at the Smithsonian need to hear that statement. The politicians in New York, who are afraid to let go of this wonderful collection, even though it might benefit the world, need to hear that statement, and understand how deeply Indian people feel about these items. They are not just items. They are not catalogable, in our spiritual life and in the way we view our ancestors whose legacy has not yet been fulfilled.

I hope that the people who might oppose this for whatever reason, from politicians in New York to politicians in the Office of Management and Budget, might take another look and think of it in terms of the centuries of healing that might be possible to come out of this national expression of a new era in Federal-Indian affairs.

Thank you.

The CHAIRMAN. Thank you very much, Ms. Harjo.

I would like to call a short recess. A vote is now pending. We will call a recess for 10 minutes.

[Recess.]

The CHAIRMAN. May I now call upon Ms. Saint Marie.

STATEMENT OF BUFFY SAINT MARIE, KAPA'A, KAUA'I, HI

Ms. SAINT MARIE. Chairman Inouye, committee members, and distinguished guests, a few hundred years ago native American people discovered Columbus who had gotten lost on his way to India. Ever since that first mistake in cross-cultural research and nomenclature, we have been extremely grateful he had not been looking for Turkey.

What I have to say to you is rather personal, and it comes from my own delighted perspective as one native American who has been fortunate enough to feel at home on a stage in Paris as I am in a reservation community in North America. When I finish a concert in Australia, I take off with aborigine people; a concert in Scandinavia to the homes of Samit-Lapp people, and so on throughout the wealthy countries of the world where indigenous people still survive.

I have traveled extensively with UNICEF. I have lived for 20 years in precious, multi-cultural Hawaii, and I know what it is like to be both a contributor to, and a beneficiary of the history, the present-day interrelatedness, and the future dreams of many cultures of the world, large and small, and that is what I love about living.

I spent 5½ years as a cast member on Sesame Street where my main purpose was to reveal to children and their parents, three times a day to 63 countries of the world, that Indian people still exist, that we have families. Many children did not realize that. That we have languages and many cultures, mathematics and many histories, and a future and fun.

Before racism or movie stereotyping can ever set in, a 3-year-old can now say, "I already know some Indian people from Sesame Street; and besides Big Bird says, Indians are OK." This was a sad lack in the world and in many places still is. If you happen to be over the age of 5, you may still be lacking in that knowledge.

I am very proud to have reached so many children with this good news, and on more than one occasion I was assisted by the Museum of the American Indian in procuring Indian toys and everyday objects for use on Sesame Street.

Now, I like live Indians, not just dead ones. I love the Museum of the American Indian, not just for the pretty "loot" that is in there, for that part can make me cry, but more importantly, because of what I have learned about the present and the future every time I visited there, and I have been there many times over many years.

There were undeniable trade routes of long, long ago that speak of exchange and friendliness over generations and nations, between cultures very far apart and much more different from one another than the world's nations of today are, who have so much in common; languages and business practices and customs and computers, et cetera. And I learned, if these diverse people of long ago could trade extensively for so long in peace, maybe the nations of today can do the same. And because of a specific visit to the museum, it gave me hope.

I ran into a scholarly problem at this museum, however. It has been referred to, but I am going to make it personal for you. It illustrates both the potential and the frustration one feels when working at the museum at its present site. Some of my own favorite works of art at the Museum of the American Indian are big beaded cloths. And the point is not what they were used for, but that the beadwork is done in patterns of lace, obviously influenced by some colonial lady's tablecloth.

I am really interested in those peaceful, cross-cultural early contacts between native people and colonial people that we seldom hear about. There is a lot of evidence of such friendship.

Instead, when we are growing up we hear about what "lousy sons of buffalo chips these colonials were" on the one side, and how they "stole and rape and pillaged," et cetera. And how "those Indians were a bunch of savage, no-account sons of the devil," et cetera. I really do hear such things out in the small towns of America.

But both lace and beadwork take a long time. And our hypothetical Mrs. Ironchild did not study Mrs. Adams' handicraft techniques on a video. Those people used to hang out together. But you do not read about that in the kids' history books.

Friendships were engendered by appreciating one another's cultures, then as now. And this too gives me hope, as an artist and art lover, of course, and as an Indian. But mostly as a person who wants the multiplicity of the human species to continue interacting on the highest and most fun possible levels.

Here is where my problem arose. For me to dig around through the museum collection to prove my hypothesis about native-colonial friendship is presently almost impossible. The Museum of the American Indian library is miles from the displayed beadwork lace piece. And the major part of the museum collection which might

hold other clues for me is so immense that most of it is put away at a third location in a warehouse and it is deteriorating. Not because the curators do not care, but because the present New York home of the museum is not adequate for the cultural treasure it includes.

In other words, the museum in its New York location is spread all over town and cumbersome to the point of inefficiency to a student trying to learn.

This museum is important. It is a major art treasure throughout the world. When I go to Tokyo or Geneva or Oslo, people are only briefly interested in my Academy award. However, they are continually and deeply interested in the part of my daily life that is particularly native American. People abroad and at home are interested in our native cultures. They just cannot find us.

I bet every person in this room has said or knows somebody who has proudly said, I am one-sixteenth Cherokee. I hate to tell you, but there simply were never that many Cherokees to go around. When Andrew Jackson force-marched the Cherokee Nation from the Carolinas to Oklahoma, they never did have time to party.

However, in the Museum of the American Indian there is enough data to go around regarding the lives and colonial contacts of tribes and nations most of us have never even heard about, and the research is waiting to be done. A lot of us are excited to know about these nations unknown to us. And Washington, DC is visited by people from every State and country in the world as well as our own, and it is important to note, every native nation as well. Native people come to Washington, DC all the time for one reason or another.

Senator Inouye's bill certainly sounds to me like the best solution of where to house this great collection in such a way that all Americans can, as you say, "have an opportunity to learn of the cultural legacy and historic grandeur of the American Indian people."

The best Indian museums are responsive to, and involved with living Indian people, not just dead ones. It is widely recognized among professionals who work among Native American people that there is a jarring lack of role models for Indian kids. Hardly anybody has been to all the reservations and native communities in America bringing evidence that life can be fun, interesting, worth living, accessible to an Indian.

Native people do not have any connections into the system or things to be proud of. They read the same empty history texts as other American kids do. They are proselytized by churches, ripped off by energy companies, and they know far more about the renaissance and European history and heros than they know of our own.

Our reality is invisible in the mainstream. And our suicide and mental health problems are a growing tragedy. There is so little to cling to, to look to, to be proud of in the school systems, that point to Native American contributions.

The fact that a native museum and memorial will be in Washington will itself be a matter of pride to native people, I assure you. I have talked to many people by telephone and in person about this move. The fact that my own foundation for Native American scholarships can spearhead museum curation as a field of study is now possible. And that I will have a great library and research center

to which I can direct students, journalists, movie companies, and travelers from throughout the world when they want to know about Native American culture is very important.

It is important because the stereotyping that goes on throughout the world in the educational system, in the movies and TV, is partly because when a teacher or a movie director comes to me and asks me, where can I find out this or that, I know the guy is going to have the same kind of trouble as I had when I wanted to research my lace and beadwork project. It is very difficult. But it is not a difficult problem to solve if this museum is put in place here with the plan that you have put forward.

Educational and entertaining videotapes made at the National American Indian Museum can reconnect Indian people not only to our own historical culture but to the pride we feel in one another when a contemporary Indian artist participates in a major world-class museum. This does happen in the art world but it is seldom Indian culturally based or identified as such.

No native American person who really gets in touch with the beauty and grandeur and the potential of our people as evidenced in this particular collection, can remain unmoved. Hidden away in boxes in New York, it is invisible. Displayed and promoted in Washington, DC, as we would like to do, it becomes inspirational.

Another matter completely different is addressed very sensitively in Chairman Senator Inouye's bill, one that is extremely important to native American people that Ms. Harjo referred to. Skeletal remains both ancient and recent, end up in Indian museums throughout the world. Even today wherever I go, Indian people are aware of some contractor or other who has just dug up one of our "churchyards," sold the remains to some museum where the bodies are stripped of their beads and feathers and then put away in a vault in case somebody wants to study them later. Of course, it is illegal, but it does still happen.

And inevitably, the conversations then turn to discussions of our ancestors whose remains lie in the Smithsonian and other museum institutions. Imagine your feelings if you came to my reservation and discovered that 18,000 dead colonial people were being housed in my private museum, without benefit of recognition, religious ceremony or proper burial. It is grisly, and most would say it is unholy. And some would say it is racist and, unfortunately, typical of America at its worst.

Chairman Inouye's bill, S. 1722 is responsive to these feelings. My only further wish would be to ensure that the identifiable remains be returned to the families and Indian nations from which they came. However, in many cases, even the flesh was stripped from the bones, and there are no identifiable markings and apparel to help us to identify these first defenders of the American continent.

I can tell you sincerely that among native people, and among non-native people who hear about these skeletons in the nation's closet, it does not go. It just does not fly, and it will have to be dealt with. I am really glad it is being addressed.

It is a very interesting solution, the one you have come up with. Although I think it is a shame that any proud horseman of the

Great Plains should be buried in the city, I am well aware of something that I think is important, and it has to do with racism.

There are twin problems in this country when it comes to Indian, non-Indian relations. The twin problems are unaddressed guilt and unaddressed bitterness. And after any one of my concerts, people will come up to me in numbers and they will say, I feel so guilty that my ancestors did this or that. Or native people will come up and say, I feel so terrible that this or that was done.

Guilt and bitterness lie at the heart of a lot of modern racism that is still going on today. And yet mourning a death can be a healing act. And that such a national memorial seems at this time most appropriate, is obvious in my heart. And by locating it right alongside the proposed museum, I think it is important. I think we feel an emotional loss.

With understanding on the one hand for the people who feel guilty, they can come, they can understand why we are proud that we are Indian. They can understand that the past is the past, and that the future can be good. And on other hand, the appropriate pride can take the place of bitterness on the native side.

One more thing. The Museum of the American Indian lacked only one thing in my opinion other than adequate space. I never saw a lot of live Indians working there. It only makes sense to me that not only the gift shop be staffed by Indians, but that such a national museum go out of its way to recruit qualified Native Americans for all kinds of jobs, from the most professional to the menial, which I think probably might not have been possible 20 years ago. But knowing the people at the museum, knowing the change in time in the country, I think that it will be a very possible and delightful contribution to the new museum.

Contemporary Indian artists, dancers, musicians are world-class. We are in demand throughout Europe and Asia. The old museum in New York has its hands full with just the past. The proposed new museum has a stage for the performing arts and recognizes that Indian art is an ongoing treasure.

Museums that house only dead Indians work against us. Many children actually still believe that Indians are all dead and stuffed in museums, that we are a Halloween costume, that we vanished, and that their parents are to blame because they did not fight hard enough, or because they were terrible people.

In honoring our past, please honor our present and future generations as well or the new Indian museum appears to become little more than just another collection of loot stolen from a vanquished people by a nations of thieves and grave-robbers. Surely there can be more to it than that, if we make it more. And surely the time to do it is now.

Native people want to make some more contributions to American society as participants in this plan, and as artists, of course. When I take you to the National American Indian Museum and Memorial, or when you take me, I want to see a lot of live Indian people, artists, curators, students, guides and visitors.

Thank you, Chairman Inouye, for coming forward with this bill and for inviting me to share my thoughts and feelings here today. As you obviously know, we do still exist and I want us all to enjoy it.

The CHAIRMAN. Thank you very much. Your statements have been concise, clear and deeply moving. And I would hate to add anything or ask anything for the fear that it might blemish it, but I have a few questions I must ask.

Mr. Costikyan, you mentioned that time was of the essence. What do you mean by that?

Mr. COSTIKYAN. Senator, every month and every year that goes by without creating a satisfactory environment for this collection increases the risk of its deterioration and its non-survival.

Second, it costs money to keep this establishment running in New York City. And the museum has been unable to raise substantial funds because of its location. It has made immense efforts to stimulate donations from corporations, from private individuals, and has almost uniformly been turned down because of its location and the fact that so few people see it.

That puts a tremendous burden on the few individuals who have kept this museum functioning. And as costs go up, the burden gets more and more difficult.

In my view, a resolution of this problem with eight to ten months is probably essential if we are going to be able to keep the ball rolling for the future. And I do not know how much longer the few people who have kept this museum alive will be prepared to stand up and do it.

But we are getting no help from any governmental agency except some grants from the state commission on the arts. We get no contributions from the city or the state other than that. And we have very high heating costs. We have very high security costs. And we try and keep that museum open so that the few people who want to see it, get a chance to come in and see what they can see. So time is precious.

The CHAIRMAN. From a legal standpoint, is there a time limit also?

Mr. COSTIKYAN. No; not really, Senator. The judge has been quite understanding. And while there is nothing precisely before him to decide, there will come a point where he is going to say, unless you have got a real proposal to make, I am either going to dismiss this or do something drastic.

He has indicated that if it takes a year from last July to resolve what is going to happen vis-a-vis the Smithsonian, he is satisfied to wait because he is satisfied to wait. If by next July we have not got something concrete in place, I do not know what he will do.

The CHAIRMAN. Mrs. Kidd, what was the viewer attendance last year of the museum?

Ms. KIDD. The viewer attendance this past year was about 43,000, I believe. At the research branch, we had a different situation. There were, on the average for the last 3 years, 8 researchers from the State of New York and 161 from other parts of the Nation.

The CHAIRMAN. Mr. Adams, may I ask you a question at this juncture? At your Museum of Natural History, how many viewers attended last year.

Mr. ADAMS. I, in fact, have a figure—7.9 million.

The CHAIRMAN. 7.9 million.

Mr. ADAMS. Total for the Smithsonian for the year ended the first of October was just over 25 million.

The CHAIRMAN. What would you guess would be the attendance of the museum on the mall if we were successful in this bill?

Mr. ADAMS. In that extraordinary location, with the Air and Space Museum on one side and the National Gallery East Wing on the other, both of them museums of enormous popularity, I think probably the attendance at the Natural History Museum is on the low side of what the annual attendance would be. I would not be at all surprised if it were in the range of 8 to 10 million.

The CHAIRMAN. If the present condition were permitted to exist under the present museum infrastructure, what would be the rate of artifact deterioration, Dr. Force?

Mr. FORCE. That is difficult to say, Senator, except that it definitely would occur and it would advance. The rate of deterioration is a function of many things, obviously. While we have introduced some climate controls for the collections that are stored, the buildings in which those climate controls exist are inadequate. There is the danger of pest infestation. There is the danger of urban pollution. There is the danger of fire and of theft.

The present storehouse, which you made reference to earlier where you saw the bulk of the collection, happens not to be built on a good site. It is a very moist site and so humidity creates problems. The rate could be thought of as one that might not accelerate, but there is always the risk. It is there and it is real.

The public side of it, we do not have complete climate control within the exhibition facility. And the deterioration is but one of the risks. Security is another. So I can just say to you that that risk is going to be compounded the longer we wait.

The CHAIRMAN. When I left the museum on my visit, especially the warehouse, I concluded that if we permitted this condition to continue it would be a national obscenity. And I think that all of you agree with me. And I can assure you that we will do everything possible to make certain that this obscenity does not continue.

Can you provide this committee with further detail on the view of the board as to why the Smithsonian option seems consistent with your understanding of the Heye trust instrument? And further, tell us about your relationship with the New York Museum of Natural History.

I believe discussions were held on that, were they not?

Mr. COSTIKYAN. Yes, they were, Senator.

The CHAIRMAN. Can you tell us a bit about that?

Mr. COSTIKYAN. As to the first question, the trust instrument is quite specific as to what is to be done. And what is to be done is essentially a museum function; preservation of the collection, exhibition of the collection, study of the collection. And the Smithsonian environment is one in which those museum functions can be carried out probably better than any other environment that I know of in the United States.

The discussions with the Museum of Natural History, from the point of the view of the board, ended in September 1985 after very long and arduous efforts to reach an agreement. They finally foundered on basic disagreements.

The most basic was the size of the facility that was to be built. Our experts said we needed 400,000 square feet. Everyone that I

know of that has looked at the exhibit has agreed with that number. The Museum of Natural History was willing to agree only to a building of no more than 252,000 gross square feet, I think.

The rest of the disagreement was a simple one. The board of the Museum of Natural History said, we are not going to turn over this money to you, or build this for you, or make this deal unless we can take control and we will take control. And that meant the end of the independent entity of the Heye Foundation. And it was part of Mr. Heye's desire to memorialize himself and his collection by creating what he did create, the Museum of the American Indian, Heye Foundation. That seemed to our trustees to be an unacceptable proposal.

And when the matter was submitted to Judge Stecher, he did not expressly state that the Museum of Natural History proposal was unacceptable, but if it had been a viable alternative in New York, he would have had to grant the attorney general's motion. Because an essential element of our motion, of our position was there was no viable alternative in New York. And the attorney general said, yes, the Museum of Natural History is a viable alternative. And if the judge had agreed with that, he should have dismissed our petition. He did not do that.

I do not know whether we are going to be asked to deal with the Museum of Natural History again. The only reason I mentioned it is, I am told that someone from that institution is planning to appear at a hearing somewhere down the road, and I thought it might be helpful if you had some of the reasons why we were unable to reach accord.

The CHAIRMAN. From what I gather from your response, that under any circumstance before the collection can be transferred out of the city or the State, it can only do so with the approval of the court.

Mr. COSTIKYAN. That is correct.

The CHAIRMAN. That being the case, would it help if this measure specifically indicated that the bill would be contingent on the approval of the New York court?

Mr. COSTIKYAN. I think it would. I think it would be very helpful. One of the problems is a chicken and egg problem, who says what first. And if the Congress were to act and say, this is contingent on the action of the New York courts, it would make it clear who was supposed to decide what when. I think it would be very helpful.

The CHAIRMAN. Has the board considered other alternatives, in light of the New York delegation's proposal?

Mr. COSTIKYAN. Not since we were advised of it, which was yesterday really.

The CHAIRMAN. Mrs. Kidd, would the board be willing to sit down with the New York delegation, the Smithsonian, and committee representatives to discuss this matter?

Ms. KIDD. Yes; indeed. We would very much like to help in any way we can to reach an agreement where we all feel that the very best thing is achieved. And we would be happy to sit down and help and be a part of any such discussion.

The CHAIRMAN. Senator Stevens.

Senator STEVENS. Thank you. I think I should let you know where I am coming from before I ask you any questions. I think

that the idea of having a national American Indian museum on the mall has great merit, independent of what happens to the Heye Foundation.

We have the Cooper-Hewitt Museum precedent, which would seem to point in a contrary division, Mr. Costikyan, to what you just said the foundation board insists on. And that is some control of—and recognition of the foundation after it is acquired by the Smithsonian.

Let me just ask you a question now. Is it the position of the foundation that after the acquisition, if it takes place, of the assets of the Heye Foundation, that the foundation would have a continuing role in the management of the museum when it becomes part of the Smithsonian?

Mr. COSTIKYAN. No; not as the foundation. But it is part of the legislation that the present—that 15 members of the present board, plus eight members to be designated by the Smithsonian, shall become the trustees of the National Museum of the American Indian and be vested with certain powers. Not total powers, but certain powers over the collection.

And the reason for that proposal was because Judge Stecher, in his decision denying the motion to dismiss, made it clear that he regarded it as important to carry out the donor's intention, that the independence of the trust that he created be preserved. That is really largely to meet what we believe to be the demands of the New York courts as a condition to allowing this transaction to take place.

Senator STEVENS. I hope you will inform the court that as far as this senator is concerned, that when the foundation runs out of money and the taxpayers of the United States have to take over, that maybe the donor's intention may have to be avoided just a little.

It does seem to me that the question we really have is should we create—and I think we should, as I said—a museum of American Indian culture and artifacts in Washington, DC. I think the idea is long overdue. We should have done it a long time ago. I am sure there are a lot of other Indian collections throughout the country that want to be displayed in that museum the museum would cause others to be forthcoming with donations. Because of that to have an overwhelming majority of those managing the new museum come from the Heye Foundation, in my opinion, would be wrong.

That is my judgment and—I lived through that Cooper-Hewitt museum. We should not allow the Heye Foundation's intention to control the creation of a national museum.

Mr. COSTIKYAN. Senator, we would be glad to explore that with you. It is a problem; the governance problem, we have always recognized it as a problem. But I must tell you that a consideration that is very significant to the courts in carrying out the original intention of the donor is whether the institution is to survive as he contemplated it.

If it goes bankrupt, then we are placed with a wholly different set of considerations. And you are quite right, at that point the judge would have to make an order that made as much sense as possible in terms of carrying out the original intent.

Senator STEVENS. I see no problem in recognizing the predominance of the contribution that might come from this foundation if the suggestion made by the chairman, and endorsed by you all here now, becomes a fact. There is no question that—and I have just checked this with the Smithsonian people—that this is the finest collection that there is. But there are other collections.

And I compelled to tell you about my first wife who is now deceased, when she was walking through the Smithsonian one day and asked a young man if she could see the collection of Alaskan native culture objects. And she was taken to—and I subsequently have seen it—an area of storage, which my friend from Hawaii know, is still there. And many of items still not cataloged.

And we were appalled to find how much Alaskan Indian artifacts are here already. That observation led me at the time, to suggest, and what Senator Bingaman suggests again, the establishment of some regional museum of the Smithsonian.

But while the Smithsonian representatives here say that the Heye Collection is high quality, it still remains the fact that there is a lot of American Indian and Alaska native material in the Smithsonian already that the public does not see, and we do not have the money to catalog to even know what we have. The Smithsonian did come out with the Nelson collection, and it was a fine, fine exhibit of Alaskan items that came from just one collector.

I just do not really believe that the problems that I am hearing about the storage in New York is any different from the storage problems here. We to have things stored that we do not have room for. We have artifacts stored here acquired from the predecessors of the people I represent, in exchange for beads. They were taken from them almost involuntarily and brought to Washington, stored and have never seen the light of day in Washington.

I would like for you to tell me, why should the collection of this museum in New York take precedence over those items that the Smithsonian already has?

Ms. HARJO. It would combine the great collection of the Smithsonian and the collection of the Museum of the American Indian.

Senator STEVENS. Only if this new board recognized it. But as I read this bill, with due regard for my good friend—Sen. Inouye whom I want to work together on this matter—does not seem to me that it is going to have much balance towards the assets and the artifacts from other collections, including those now in the Smithsonian, or from other organizations throughout the country, if it is predominantly governed by representatives of the Heye Foundation.

The CHAIRMAN. Senator, can you yield? I believe Mr. Adams would like to respond to that.

Mr. ADAMS. Yes; I would like to make two points, Senator Stevens. The first is that the agreement, which has never been completed but which we have discussed at length and which we—I think both sides feel could reach agreement on relatively easily. That is to say, the Smithsonian on one side and the board of the Museum of the American Indian on the other.

The agreement that is contemplated there is one that, though it does not set up the members of the board in perpetuity, but implies a principle of rollover. There would be continuing replacement of

board members after specified terms. And I think there is every reason to believe that rather than seeing a permanent board that would sit in command of all this, there would be a replacement as new interests came to the fore, as new collectors appeared with major things to offer perhaps, as new expertise appears among American Indians.

Senator STEVENS. We went through the same phase with Cooper-Hewitt, remember? They wanted to have the Smithsonian take it over and continue to manage it, and have the Federal Government finance it and leave it right where it was.

Now this is a little bit different now. But what I am hearing is that the Heye foundation, with due respect—and I have a great deal of respect for those of you who spend your time trying to make something like this survive. But with due respect, what I am hearing is is that the foundation wants to come down here, move its collection down here and have the Heye Foundation survive on the mall, to honor the donor's requirements at the time he set up this trust.

But the trust is not surviving, and the foundation is not surviving. And I see no reason to continue it. Because in the embryo stages of this museum, this foundation's board will have control for a substantial period of time, as I read the Bill, until they are replaced.

Now I want to see a museum here. And I would like to see these assets, if the Heye Foundation is ready to turn them over to the Government, become part of it. But I do not want to see any foundation dominate the American Museum of Indian History in Washington, DC.

Mr. ADAMS. Senator Stevens, I should point out that the activities of this board would have to go forward under the general guidelines of the board of regents of the Smithsonian, and that has been understood from the beginning.

Senator STEVENS. If that was so, then they would not have any control over the basic programs, and this bill would give them that control. As I read Chairman Inouye's bill, it will give them the right to set the guidelines, and the whole program for this new museum.

Now again, I am just saying, that to me this is a great problem. With great reverence for what Mr. Heye did, there are a lot more from American Indians, and Alaska Native arts and culture objects out there in the country that people will come forth with once we establish this museum. I think it ought to be understood that the Heye Collection is a resource which would come up to the Smithsonian. If half of it ends up stored with the rest of our Alaska native arts and crafts, so be it.

But, that is not what I read will happen in Sen. Inouye's bill. I read that all of the Heye collection is going to be displayed, and whatever else the Smithsonian gets in, fine.

Mr. ADAMS. Senator Stevens, I would like to point out the policies of the Smithsonian are, of course, under the control of the regents of the Smithsonian. But the understanding that we have had from the beginning in our discussions, is that if this collection were to come here, it would in fact be a step in a major reorientation of exhibit policy.

It only makes sense to move in this direction, if in taking of this advantage of this extraordinary collection, we can in fact begin a program of outreach of precisely the kind that you envision: One that reaches out into small communities all across the country, that involves Native Americans in the study of their own materials and the interpretation of their own materials.

It is precisely because we intend to do what you are describing that having the opportunity to bring such an extraordinary collection to Washington is so important, it seems to me. It creates that kind of magnet of attention here, which would demand that we go forward in the direction that you are describing.

Senator STEVENS. I accept that. I do think it is giving us a focus on something that we lack in Washington in terms of the Smithsonian. I accept the objective of Chairman Inouye's bill.

But I do not believe that merely having the power to replace the members of this foundation board when it is folded into the Smithsonian, is going to give the Smithsonian the right to determine policy through its board of regents. I see a conflict between what I understand to be the powers of the board of regents and the Indian Museum Board. As you know I have been following the Smithsonian now for amost 20 years on the Appropriations Committee.

And this would be the first instance, to my knowledge, that a gift was accepted with the condition that it would follow through in perpetuity in terms of a recognition, not only of the original foundation, but to give the foundation the right to set the guidelines for the new entity of the museum at the same time. I hope I can be disabused of that opinion.

But right now my feeling is we ought to tell the court in New York that the Federal Government would welcome taking over the responsibility of this foundation and welcome its cooperation in establishing a new museum in Washington. But we will not allow the Heye Foundation to set the policies for the Federal Government with regard to the new museum here in Washington.

The CHAIRMAN. If I may add to this confusion, I believe what this bill hopes to achieve is an arrangement quite similar to that we find presently in existence with the Hirshhorn collection.

Is it not true that the Hirshhorn Foundation still has some say in the exhibition of the collection?

Mr. ADAMS. Mr. Chairman, there is a board of trustees for the Hirshhorn. It has powers that are, at the moment, unique within the Smithsonian over the acquisition or the disposition of the collection of the Hirshhorn, but operates within the guidelines that are set down by the regents, and it has from the very beginning.

I think that we are contemplating an arrangement that is really quite similar to that of the Hirshhorn, in the sense that there is a division here. There are general guidelines to be followed that are understood by the trustees of the Hirshhorn and that are laid down by the regents. And there would be in this case, too.

I really think that the problem is not one that will appear, with discussion leading perhaps to some modification in the wording of the bill by the time it finally comes up for a vote.

Senator STEVENS. As I understand this bill, it is not until the expiration of the initial term of the Heye Foundation board of trust-

ees that the successors can be designated by the Smithsonian board of regents.

Incidentally, the replacements are selected on the recommendation of the Heye board of trustees. In effect, this board will be sustained by the recommendations that come from the foundation board itself.

And again, I hope those on the Heye Foundation Board understand, I do not have anything personally against you. I just believe from a matter of policy it is wrong to set up that kind of perpetuity control you are suggesting by this foundation. If we find a way for the taxpayers to take over and preserve the original intentions of the donor. I should think that would be sufficient.

Mr. COSTIKYAN. Senator, it is, I said, a complex issue. But I think you will find, if you study both this and the Hirshhorn formula, that the proposal in the Inouye bill gives the trustees less power, and less power to designate themselves or to designate their successors, and less power over the collection than the trustees of the Hirshhorn have under that legislation. So that if this were enacted in its present form, it would not go as far as the precedent in the Hirshhorn went.

Senator STEVENS. I find this bill goes a long way. I have not even mentioned the provision that says all the employees in the Museum of the American Indian, Heye Foundation who were serving at the day of the transfer authorized under this section shall be offered employment in the Smithsonian, notwithstanding provisions of any portion of the United States Code.

Mr. COSTIKYAN. That, I think, is likewise-derived from prior Smithsonian legislation. We did not invent that. We did not even negotiate that. That was language that was taken out of existing legislation, and we were told this is the way it ought to be done, and it seemed acceptable to us.

Senator STEVENS. Tell that to my friend, Ms. Saint Marie, who has been to my state and we all know her. Ask her how we can satisfy the requirements of the Federal Code with regard to Indian preference in hiring in terms of this museum if we put that in this bill. We have an Indian preference in the law that applies to all the Bureau of Indian Affairs, and Indian Health Service.

I would assume that we would make that applicable to this museum. And this is directly contrary to that policy.

Mr. FORCE. We need to respond to that point, Senator.

Ms. KIDD. We, at the moment, do not have anywhere near an adequate sized staff to undertake the program that is contemplated in this bill. So that even if all the staff of the museum which now numbers, I believe, about 35 people, there would be several hundred more needed to bring this program to fruition. So that there would be ample opportunity to bring in Indian staff.

Mr. FORCE. May I add a word, Senator Stevens, just to elaborate on what Mrs. Kidd has said, and to also respond to something that I did not have a chance to say in response to Ms. Saint Marie's comment.

We have had a policy about Indians as a constituency of the Museum of the American Indian now since 1978. This covers many things, including making certain that Indians are members of our

board of governance. We have a board now of 22 members, 8 of whom are Indians. That is deliberate.

These would be excellent trustees whether they were Indians or not, but they do represent, in a broad sense, the Indian people of this country. And this is as much importance as having Indian staff members because these are policymakers.

Our board is not a local board. It is not a New York board. It is a national board, and that too is deliberate. And I would think that the successors on that board would also derive from the nation at large.

At the same time, we also have an affirmative action program within the museum, and we hire people who are Native Americans whenever we can. Of people who are both full time and part time now, there are about 45 rather than 35; 35 are full time. We have, I believe, eight people who are of Indian ancestry. It was not always that way. That is deliberate.

Were we in a hiring posture more often, I am certain that we could hire and employ more people of Indian ancestry. And I would hope that we could with an expanded staff, as Mrs. Kidd has said.

And just in closing, I would echo what Secretary Adams has said. We have attempted, in this formula that is in the Inouye bill, to present a formula for the future and a cooperative relationship under the terms that are already in existence within the Smithsonian.

There would need to be somebody that would stand in an operational role under the general aegis and oversight of the regents of the Smithsonian. We have been very careful to make certain that our formula met that order.

Senator STEVENS. I hear the Hirshhorn, but I do not think it is quite the same thing as the Hirshhorn. My memory is that the Hirshhorn group came forth with a substantial contribution to the building, and it was a different financial situation that existed at that time. This, with due respect again to all of you, is something that someone is going to have to step in and save. That was not the Hirshhorn situation as I understood it.

Mr. FORCE. I think you are correct, Senator.

Senator STEVENS. I do think that preserving Mr. Heye's original intent with taxpayer's money is not right. If we are just asked to provide taxpayer's money and Federal property on the mall to perpetuate the Heye Foundation, I shall oppose that.

But if we are going to use this as a magnet to create now a greater museum of American Indian, Alaskan native history, in effect, then I think that is a tremendous motivational factor involved in what the Congress should review.

But again, I hear, let us do things like the Hirshhorn did it. I know what we did in the Cooper-Hewitt situation. And I think that this bill would give you a great deal more perpetuation of the Heye Foundation then either of those precedents would without the same contribution that the Hirshhorn made to the effort at the time.

Ms. KIDD. May I respond to that, Senator?

Senator STEVENS. Yes.

Ms. KIDD. We certainly do not bring the endowment resources with us that the Hirshhorn did. However, our collection is—well,

estimates have run at $1 billion, and that is a kind of unique dowry that we feel is worth the Federal support. And perhaps if you add together the value of the Hirshhorn collection and whatever hard dollars they brought, I do not know if they would equal the $1 billion value of this collection.

Senator STEVENS. There is no question you have a collection that we should do our utmost to try and help keep it together, and preserve to the extent we can, the original intent of the donor. But to preserve the donor's foundation at the same time at taxpayer's expense, in my judgment is wrong.

Again, I do not mean to be offensive. I just think that there is a reason here for us to move forward. You would not be here if the original donor had managed to put enough money in trust to preserve this forever.

Ms. KIDD. That is correct.

Senator STEVENS. And I think we have to accept that.

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. Senator Stevens, there is a submission that I made to Senator Inouye by letter on the 10th, a letter approved by the Office of Management and Budget. It contains an attachment with alternative language suggested. I think you might have a look at it. It is directed toward the points that you are making.

Senator STEVENS. I will be happy to do that, and I will discuss it with Chairman Inouye. Again, the real problem is, we both also sit on the Appropriations Committee, and down the line there is going to be a substantial request, an increase for the Smithsonian in terms of annual operating costs once this is folded into the Smithsonian.

And I think that has to be taken into consideration. If we are going to have the support we need to get that money, I think it would be lessened if someone in the future is going to say, this is the Heye Foundation and not the Smithsonian that we are preserving.

Thank you.

The CHAIRMAN. Any further statement?

[No response.]

The CHAIRMAN. If not, I wish to thank all of you. I think it has been a very fruitful afternoon. As I said earlier, I have yet to come across a problem without a solution. We will most certainly find one. And at the appropriate time, I will convene a meeting of all the interested parties to discuss this matter, to come up with a consensus on what should be done.

So until then, thank you very much and the hearing is adjourned.

[Whereupon, at 3:42 p.m., the joint committee meeting was concluded.]

APPENDIX

Additional Material Submitted for the Record

S T A T E M E N T

B Y

ROBERT McCORMICK ADAMS

SECRETARY

S M I T H S O N I A N I N S T I T U T I O N

B E F O R E T H E

COMMITTEE ON RULES AND ADMINISTRATION

A N D T H E

SELECT COMMITTEE ON INDIAN AFFAIRS

U N I T E D S T A T E S S E N A T E

WASHINGTON, D.C.

NOVEMBER 12, 1987

Thank you, Mr. Chairman.

I appreciate the opportunity to appear before you today to testify on S.1722, the primary purpose of which is to create the National Museum of the American Indian on the Mall here in Washington as part of the Smithsonian Institution. The comments of the Institution with respect to specific language and authorizations contained in the bill are embodied in my letter in that regard of November 10, 1987; our views on S.1723 are contained in a separate letter to you of the same date.

With respect to S.1722, I would, at the outset, assure you that the Smithsonian's interest in the Museum of the American Indian, Heye Foundation, is driven by a concern for the protection of that Museum's resources for the Nation and for the people whose history, culture, and traditions are represented within them. It is also driven by the belief that, working closely with Indian people, the Smithsonian is uniquely able to dedicate this unsurpassed collection, a testament to the cultural heritage of native Americans, to the cultural advancement of contemporary Indian people and to the improved understanding of their past by the entire American public.

The existence of the Museum and its extraordinary collection has been known in the scholarly community for many years. At various times across those years, anthropologists on the staff on the Smithsonian's National Museum of Natural History have served as members of the Museum's Board of Trustees.

The prospect of a more specific relationship between the Museum and the Institution was initially raised by Nelson

Rockefeller when, as Vice President, he was a member of the Smithsonian's Board of Regents. At a meeting of the Regents in January 1976, he remarked that in his travels around the country he had been impressed with the thoughtful contributions to discussions that representatives of the Indian community had made, and was mindful of their growing sense of Indian identity and pride. After making reference to the unique scope and pivotal importance of the Heye Foundation collection, as well as to the problems surrounding it at that time, Vice President Rockefeller suggested that there might be an opportunity for the Institution to acquire the collection and to establish a museum devoted to the arts and culture of the Indians of the Americas on the last remaining site on the Mall.

Prompted by the Vice President's interest, the Regents authorized the Secretary to explore the status of the collection and advise them of any viable options. In October 1976, then Secretary Ripley reported that the circumstances surrounding the Museum and its activities were of such a nature that no action by the Smithsonian was recommended.

In 1980, a series of discussions with the Smithsonian were initiated by several of the Museum's trustees. These discussions centered on the possibility of transferring the collection to Washington, maintaining an independent museum in New York, and developing cooperative scholarly and educational programs with the Smithsonian. Nothing came of these discussions, largely because of renewed efforts to find a suitable location for the Museum in New York.

Naturally, we have been aware of the various proposals put forward, and the status of the Museum has continued to be a matter for discussion by the Regents. We read with interest the opinion issued by the Supreme Court of New York in July of last year with respect to moving the Museum elsewhere, and in the fall of 1986, I visited the Museum for the first time at the suggestion of Barber Conable, the distinguished former Member of Congress from New York who had just stepped down as chairman, but even now remains a member of the Museum's Board of Trustees.

No one who sees the collection can help but be struck by its incredible range, its depth, and its richness. At the same time, however, one is appalled by its inaccessibility to the public, the scholarly community, and Indian people, and fearful of the conditions under which it is maintained because, over the long term, they can only accelerate the destruction of a collection that is without parallel anywhere in the world.

This is in no sense intended as criticism of the Museum's staff or its Board of Trustees, who appear to have done everything possible to protect the collection within the limits of the Museum's endowment, space, and location. Museums are expensive institutions to run. It is difficult enough under the best of circumstances to raise funds for special exhibitions and publications; it is next to impossible under any circumstances to secure donor support for the core functions of museums, such as the conservation of the collections that distinguish them from all other educational organizations.

It was perhaps the central theme of our national history to have moved the frontier westward across the continent, depriving Indians of their birthright for what was no doubt deeply felt to be a larger purpose. But the hostilities and other excesses accompanying that process of national expansion also were accompanied to a deeply regrettable extent by the destruction of this native American historic heritage.

Native Americans today are increasingly asserting their right for that heritage to be reclaimed and protected as a national responsibility. They do so, not as dwindling numbers of survivors whose communities are on the verge of disappearance, but as vital, growing components of the diverse, multi-ethnic society in which we as a Nation take pride. Many native American communities are small and isolated. Almost all are impoverished relative to "average" living standards in this country. However, there is widespread recognition among these communities of common issues of concern, and these concerns are being increasingly addressed by an emergent national leadership.

With these thoughts as background I would like to share with you some of the very preliminary ideas we have for the Heye Foundation collection, should it come to Washington. To begin with, it would, of course, be viewed by the world's largest museum-going public. Several minutes away in one direction stands the National Gallery of Art, while the National Air and Space Museum immediately adjoins in another. These two are by all odds the most frequently visited museums anywhere. They are

followed in order of attendance by two museums further along the Mall, the National Museum of Natural History and the National Museum of American History. It certainly would seem that a national museum of the American Indian has a well-deserved place in this setting.

But the setting is strategic for contemporary native American communities in still another sense. It is located at the end of the Mall, immediately at the foot of Capitol Hill and in that sense directly under the eye of the Congress. As native American groups overcome their cultural and linguistic fragmentation and seek to restore their economically impacted sense of community, is there any better place for the proud display and reaffirmation of what has for so long a time been hidden from view?

With the support of the Congress, I believe it would be possible to erect a Museum on the Mall that would fulfill the potential of this location. It would be unique in many respects within the Smithsonian family of museums, but then diversity is precisely the hallmark of this family. The collection is so rich that it seems possible to make provision for a truly unparalleled series of traveling exhibitions for other cities, rural communities, and, particularly, Indian reservations and pueblos. Training opportunities built into the museum's program would provide access to the collection for Indian people, as well as others, while Indians working with the collection would add to the sum of our knowledge of it through their identification and interpretation of the material.

The opportunities for scholarship are myriad; it has been said that there is a century of research in the collection, a statement that I have no reason to doubt. Nor do I doubt that the most significant product of that scholarship will be a comprehension and an appreciation of Indian people, far removed from the image that the movie-makers and story-writers have impressed upon us.

The Smithsonian pioneered native American scholarship in the 19th century, in the course of which its own substantial collection was formed. Composed of nearly four million items, representing every geographical area and most tribal groups in this hemisphere, it encompasses more than 113,000 ethnographic objects and over one million archaeological artifacts that document the cultural history of native people of the Americas from the Pleistocene to the present. Within the National Anthropological Archives are nearly 200,000 photographs of American Indian subjects and over two million pages of unpublished materials on Indian ethnography, language, literature, history, and current affairs. Related library holdings total approximately 40,000 volumes, and important film footage on American Indians is in the Human Studies Film Archives.

The value of this material derives not only from its size and scope, but from its age and the quality of documentation associated with it. Most of it was assembled by Smithsonian researchers, who carefully recorded extensive provenience data.

The Southwestern collections were begun by the leading anthropologists of the nineteenth century and are unsurpassed in range, quality, and documentation. The Northwest Coast and Arctic collections are among the earliest and best documented in the world. The large Plains collections provide a vivid record of the struggle of western Indians to defend their land and cultural autonomy against the westward expansion of European America. The massive Mound Exploration project, one of the first systematic archaeological research undertakings in America, produced unique material on the emergence of complex societies in North America, and the River Basin surveys of the 1930s and 1940s yielded incomparable data on the prehistory of much of the United States. We continue to expand these collections, incorporating contemporary American Indian materials, as well as earlier materials from throughout prehistoric and historic periods.

Some areas of duplication exist in the Smithsonian and the Heye Foundation collections. Nonetheless, they complement each other well because the Heye collection has more late 19th and 20th century material, including an outstanding collection of native American painting. The synergy of the two collections suggests undreamed-of possibilities for exhibition, research, and demonstrations of historic and contemporary Indian culture, while their complementary qualities - each adding to the other's strength - would inspire an exponential increase in American Indian studies.

However, the most distinguishing feature of the Smithsonian concept is the Smithsonian itself: an essentially academic

organization, enjoying broad public and private support. In this setting the Heye Foundation collection would not be isolated, but, rather, would be integral to an intellectual community wherein historians, art historians, physical scientists, and anthropologists - Indian and non-Indian - would use it regularly to examine questions of aesthetics, social relationships, historical development, material properties, and the representation of native Americans by others.

As a bureau of the Smithsonian Institution, a national museum of the American Indian would administer program resources for the collection, preservation, study, and exhibition of its objects and for ancillary education and other activities. In carrying out these responsibilities, it would have access to a variety of Smithsonian programmatic support services, including, among others, the Smithsonian Libraries, our conservation laboratories, the Smithsonian Press, our Traveling Exhibition Service, the Resident and National Associate programs, and the offices of Public Affairs, Telecommunications, Special Events, and Fellowships and Grants. The museum also would be in a position to compete for resources from the Institution's trust-funded Scholarly Studies, Educational Outreach, Major Acquisition, and Special Exhibition programs.

The national scope of such an undertaking is clearly one of its unique features. But within that framework there is a place for a special relationship with the City and State of New York which have been home to the Heye collection for more than seven decades. Such a relationship might take any number of forms, but

three principles have persisted across the years and in conversations with a wide variety of people: the preservation of the integrity of the collection wherever it is located; its transfer, in that sense, as an integral unit to Washington; and the maintenance of an appropriate exhibition facility in New York.

To house the activities envisioned, we would plan, as I mentioned earlier, to construct a building of suitable size and design for the public programs of the museum at the foot of Capitol Hill on what has become known as "the last site on the Mall." Bounded by Third Street, Independence and Maryland Avenues, Fourth Street, and Jefferson Drive, the site was reserved "for the future public uses of the Smithsonian" by P.L.94-74 which was approved on August 8, 1975.

We also would expect to construct an additional facility at our Museum Support Center in Suitland, Maryland where objects in the collection not being used for exhibit purposes would be stored in a protective environment, available for research, and undergo conservation treatment as necessary. Given the significance of the collection, we would hope that this building might accommodate what is known in the museum field as "accessible storage" so that members of the public with more than general interests in the material might have the opportunity of seeing it in an off-Mall, non-exhibit setting. Space for research-related activities also is likely to be included in the new structure at the Support Center.

With respect to the facility in New York, our fundamental requirement for access suggests a site that is convenient to public transportation routes and in a part of the city that regularly attracts the city's museum-going public and its visitors from elsewhere. Thereafter, the site should allow for a controlled environment; adequate exhibit space; an auditorium for lectures, performances, and films; administrative areas; visitor services such as restrooms, coat-checking, and a museum shop; and space for research assistance to the public that would include on-line bibliographic data, collection information, and, in time, video displays of objects.

We would expect to operate the New York facility as a branch of the museum in Washington, in much the same manner as our Renwick Gallery operates as a branch of the National Museum of American Art. Significant exhibitions - the equal of those in Washington - would be displayed and activities related to those exhibitions, such as films and demonstrations of historic and contemporary Indian culture, would be a regular feature of its program. Thus, through exhibitions, public programming, and technology the City would have the benefits of a world-class museum without the burdens of maintaining all of the extensive and expensive museum functions that must necessarily support these activities. Furthermore, this approach assures that the Heye Foundation collection, as well as that of the Smithsonian, would be accessible to New Yorkers in ways that heretofore have been impossible.

There are, of course, costs associated with all of these activities. Because of the uncertainties that have surrounded the prospect of the collection moving to Washington, we have not initiated the planning that is essential to determining budgets. However, within the Smithsonian experience there are some comparisons that may be useful in contemplating the four kinds of costs involved in an undertaking of this magnitude.

The first are those associated with construction. While funds have not been available to do even preliminaries studies of new projects, limited work by our staff suggests that the costs of the two buildings in the Washington area may amount to $100,000,000, allowing $75,000,000 for the Mall museum, and $25,000,000 for the Support Center structure.

The second category of costs focuses on providing equipment for and moving people and objects into the new construction and for installing the initial exhibits in the building on the Mall. The costs of these activities is estimated at $14,000,000.

While these first two categories represent one-time costs, the third and fourth are annual items: program and building operation costs. Program costs are those associated with museum administration and traditional museum functions: collecting, caring for, and conserving objects; conducting research on and interpreting them; publishing and/or exhibiting the results of that research; and providing related public programming that further illuminates the themes of research and exhibitions. Assuming that a national museum of the American Indian would be most analogous to the Smithsonian's National Museum of American

History, it is instructive to examine a recent budget of the latter. In fiscal year 1987 the American History Museum had available to it approximately $13.4 million from the Institution's Federal appropriation and $2.8 million from Smithsonian trust funds and other sources such as fund-raising activities.

Building operation costs are those related to security, custodial services, maintenance, and utilities. Until the new museum building is designed and full information is available on space layout, including the size and configuration of exhibit galleries and other public areas, it is impossible to forecast building costs. However, in fiscal year 1987 these costs for the American History Museum were $4.1 million.

Costs associated with the facility in New York would be driven primarily by the site that is selected. Until that is done - and we would expect to make a selection in consultation with public officials and community representatives - and the program I have described adapted to the site, supportable estimates cannot be provided.

In an era when the need to reduce the Federal deficit is urgent, costs such as those that I have outlined - and which must be adjusted to reflect more accurately out-year expense - are not inconsequential. Certainly they must be weighed carefully in the context of the Federal budget and the desirability of privately-raised funds. In this regard, the Office of Management and Budget advises that the Administration opposes subsections 108(b), (c), and (d) which would authorize appropriations for

construction purposes. While the Administration does not object to the authorizations for construction contained in subsections 103(c)(2), (3), and (4), it believes it appropriate and feasible that actual construction be funded by private sources instead of Federal funds as authorized by subsections 108(b), (c), and (d). These factors must be carefully considered in the light of an extraordinary opportunity to preserve a collection of monumental significance, make it more accessible to the public than it ever has been, and to share it fully with those whose ancestors created the objects within it.

I would hope, Mr. Chairman, that the deliberation of the committees might be the first step in establishing the National Museum of the American Indian here in Washington and in New York so that in the last decade of this century, as we commemorate the Quincentenary of Columbus' voyages of discovery, we also could begin the process of discovering the enduring heritage of the original people of the Americas.

For the reasons outlined in my letters to the committees of November 10, 1987, the Smithsonian is opposed to Title II of S.1722 as introduced. Although we certainly are sensitive to the interests of native people in our collection of human skeletal remains, and, insofar as it is possible to do so, are seeking to accommodate those interests, we also are concerned about the misinformation and misunderstanding surrounding that collection. For purposes of clarification I would like to describe its nature

and the reasons for its continued maintenance at the Smithsonian's National Museum of Natural History.

The collection consists of some 34,000 specimens, very few of which represent entire skeletons. Approximately 42.5% (14,523) of the specimens are the remains of North American Indians, most of which date from pre-historic periods. Those of Eskimo, Aleut, and Koniag populations account for another 11.9% (4,061); Blacks, 5.1% (1,744); Whites, 20% (6,829); and all others, 20.6% (7,033). Almost all have been acquired through approved archeological excavations or as the result of salvage operations, i.e., where remains have been exposed as the result of natural processes such as erosion or man-made incursions such as road building.

Most of the contention over our collection centers on approximately 4,000 specimens acquired by transfer from the Army Medical Museum at the turn of the century. Of these, nearly 3,400 are from pre-historic periods. The remainder - about 600 - are from historic times and were assigned tribal identifications by the Army Medical Museum; documentation in our collection lends credence to approximately 270 of those assignments.

The Army Medical Museum was created in 1862 for the purpose of studying and documenting the causes of infection and disease. At that time, the field of pathology was in its infancy and medical specimens for study were not available. Military medical personnel were concerned with anatomical structure and variation, as well as with the serious and often fatal complications of post-traumatic infection following war-related injuries.

From 1862 to 1900, the Army Medical Museum collected examples of human anatomy and pathology from white, black, and Indian populations. The bones of some 3,000 soldiers were collected during the Civil War, and in 1868 the Surgeon General of the Army directed medical officers in Indian Country to assist in an effort "to augment the collection of Indian Crania in the Army Medical Museum." Some officers were excessive in their zeal to collect, robbing fresh graves or forwarding battlefield finds and the remains of Indians who died while Army prisoners.

Descendants have an unquestionable claim on the remains of their known ancestors. We are actively engaged in an identification process that will, over the next few months, have us turn to tribal organizations for assistance in locating descendants of people with whose remains we have been entrusted until they can be located. However, I do not want to minimize the time and patience required to do this job as accurately as possible.

The greatest difficulties we face will involve individuals who cannot be directly identified. If available information suggests that they died within the relatively recent past, tribal identification may be a possibility even if their direct descendants are not knowable.

The case for the prior right of descendants would appear to be very strong, even if the directness of their descent is only tentatively established. But there is also plausibility to the claims of science. Only the analysis of these specimens, with marvelous new laboratory techniques that are being introduced

more and more rapidly, holds out the promise of tracing the exact derivation of recent groups from their more remote ancestors.

The difficulties multiply, in other words, as we shade off from certainty into uncertainty. At what point do the claims of possible descent weaken until the claims of advancement of scientific knowledge outweigh them? As Secretary of the Smithsonian, I am not empowered to surrender national collections to individuals who claim, but cannot demonstrate, their legal standing as descendants.

Ultimately, this may force all of us to recognize a common interest in a legislative solution, but a hasty and premature effort to take this course is likely to be made ineffective by the inherent complexity of the issues to be resolved and by grave Constitutional obstacles. It would seem to be a better approach to proceed by negotiation, beginning with the easier cases and progressing to the more difficult ones. Somewhere in this process I would hope that clarifying principles might emerge on which there could be a high degree of consensus.

The collection of human skeletal remains at the Smithsonian exists to enable scientists to learn about human adaptations and biology by studying living and past populations. The use of modern, historic, and prehistoric material has made it possible for anthropologists to contribute an enormous and diverse array of information about human behavior and biological similarity and diversity.

These contributions fall into four general categories. The first includes information about human diseases and health, most particularly the sub-specialties of paleopathology and epidemiology; the history of specific diseases; and the health of particular populations through time and space. The second category addresses issues of human demography such as population structure through the ages; fecundity and fertility; reconstruction of paleodemography and paleoecology through the use of age and sex data; and historic and prehistoric population movements. In the third category are studies of human behavior and social and political history; the identification of gender-related roles in social structure, status systems, and economics; and information about political alliances of past populations. The fourth category addresses medico-legal applications pertaining to present-day human identification cases for law enforcement agencies.

None of these studies could be done from artifact analysis alone. Information about the biological makeup of a population is essential in understanding its past history. Data about age, sex, and often individual status as well, can come only from skeletal studies.

Understanding the incidence of many diseases in contemporary American populations has been measurably improved by studies of human skeletal remains that have been made by physical anthropologists. In order to uncover clues about the causes of a widespread disease, it is often helpful to look at particular points in time. Several diseases today show peculiar

distributions in the United States; physical-anthropologists are making contributions to the general epidemiological effort by studying present and past populations.

One example addresses osteoporosis, a weakening of the bones brought about by loss of bone mineral of which calcium is the primary component. This condition primarily afflicts older white American females and leads to spontaneous fractures of bones, particularly in the hip, and to spinal deformities. The causes are thought to be insufficient dietary calcium and low bone mass as a result of generally low exercise levels earlier in life.

By studying bone density in living Eskimos from Alaska to Greenland and in skeletal remains of extinct Eskimo groups, physical anthropologists have made the surprising discovery that both males and females in these groups show marked osteoporosis as compared to American whites and show this condition at much earlier ages. From studies of skeletal remains of past Eskimo groups, it is clear that this is a longstanding pattern in Eskimo biology, and not the result of acculturation or Western influences. However, until recently the usual results of bone weakening, such as fractures and spinal problems, have not been frequent in Eskimo populations.

These observations have important clinical and public health applications. First of all, it seems clear that diets deficient in calcium, such as the traditional high-protein, high-fat Eskimo diet, are the primary cause of osteoporosis. However, vigorous exercise over an individual's lifetime results in relatively heavier bones, which Eskimos also show. Thus, this factor may

protect an individual against the usual health problems associated with osteoporosis.

The study also signals an impending public health problem for these native Americans. Until recently, few individuals lived much past 40 or 50 years, while the problems of osteoporosis normally do not appear until the 60's or later. Changes brought about by development in the Arctic have increased the average life-span for Eskimo populations; thus, clinicians and public health officials should forecast a significant rise in the incidence of osteoporosis-related bone disorders, which potentially could exceed the incidence of this condition in the general American population.

Another example is related to degenerative joint disease, a major debilitating condition in the aging American population today. Studies of arthritis in skeletal remains of past human populations, including ancient Britons, Peruvians, Iroquois, Pueblo Indians, and Eskimos, have shown significant differences in the amount, location, and type of arthritis occurring in different populations. These studies indicate that varying levels and types of physical stress affect the distribution of arthritis in joints. Over time there have been changes in the limbs showing the most disease: the upper limbs in most past populations; the legs in modern urban populations. Also, the number of individuals with many diseased joints has changed. Multiple joint involvement was rare in the prehistoric populations studied so far.

There also appear to be differences in the degree to which each sex is affected by multiple joint disease, with modern females showing higher levels than modern males. This pattern suggests that systemic factors affecting only one sex may be involved in the severity of osteoarthritis, an insight which may help focus further research efforts.

Physical anthropologists also have been in a position to test some clinical theories about the causes of osteoarthritis. One current suggestion is that degenerative changes at the joint surface occur when the underlying bone is particularly dense and stiff. The observation noted earlier - that Eskimos of both sexes show high amounts of osteoporosis, the opposite of dense bone - provided one team of anthropologists with the opportunity to test the relationship between bone density and incidence of osteoarthritis. They found that although female Eskimos with osteoporosis tended to show less osteoarthritis, the same did not hold true for males, who tended to show relatively high levels of both.

Other health problems known to affect native American populations in higher than expected amounts also have benefited from studies of disease occurrence in ancestral groups. One of these is cleft palate and/or cleft lip which is a complex of congenital bone defects causing a wide variety of facial and oral deformities, some of which may be life-threatening in newborns. For some time it has been noted that such defects occur relatively frequently in American Indian children as compared to the general population. It has been suspected that the frequency

of this anomaly may be genetically determined. However, studies of skeletal remains of prehistoric Indian populations have not revealed the same incidence of major facial deformities that has been found in living Indian populations in the same geographic region.

Scientists speculate that, although this may mean that cleft palate anomalies are becoming more frequent in living populations, they also may be due to the fact that in previous times infants with obvious defects often died at birth and that the skeletal populations simply do not reflect the actual incidence of the anomaly. The same scientists note that the incidence of related occult defects, i.e., minor clefts which affect only the underlying bone and remain invisible during life, are common in the prehistoric skeletal material, indicating that major cleft palate deformities must also have occurred in these past populations.

With respect to the second category, the prediction of how health and economic factors will affect demographic patterns in contemporary human populations is of major importance to domestic and international policy and planning agencies. In attempting to assess the possible consequences of social and economic change on populations, demographers work not only from studies of modern groups in transition such as hunter-gatherers and peasant agriculturalists, but also are highly dependent on information about demographic trends in past populations which are known to have passed through similar organizational phases. These data are gathered primarily by physical anthropologists and

archeologists who, working with cemetery populations of prehistoric and historic groups, have studied the skeletal remains and economic conditions of these populations.

Specific types of information which such studies have yielded include information on life span and life expectancy in a variety of ecological circumstances; population size; rates of population growth; carrying capacity; the history of population controls in the past; and the relationships between demographic variables, ecological circumstances, and cultural change, especially with regard to urbanization and centralized government. Without access to large skeletal collections of past human populations, such data is impossible to amass. Since societies uninfluenced by modern industrial nations are now virtually non-existent, the evidence about demographic transitions are even more important.

Studies of human skeletal remains have provided us with information about past population movements and relationships that would have been unattainable by any other means, including oral tradition. Those based on the form and structure of human teeth have been particularly helpful in uncovering affinities between prehistoric groups. Teeth show a number of minute surface structure variations that are genetically determined and vary considerably from population to population.

One such study has shown that early agriculturists in Kurdish Iraq were more similar to Iranian and Indo-European populations than to Natufian and more recent Arab groups. Another dental trait study of Sudanese archeological populations

resolved a controversy about population stability in the Wadi Halfa region. Contrary to previous theories, no biological evidence supported the idea that cultural changes in the archeological sequence resulted from population in-migration of a genetically and culturally different group. Instead, genetic continuity through more than 1000 years was the more likely circumstance, which means that cultural changes must be explained by mechanisms other than the infusion of new ethnic or racial groups.

Several studies of dental genetic distances, sometimes in concert with linguistic and blood group data, have confirmed the usefulness of using tooth morphology as an estimate of relationships between prehistoric populations for whom teeth may be one of the few remnants. Other research with these techniques has been used to chart the progressive distinctiveness of American Indian groups from Asian and Pacific island populations in an effort to estimate when Amerindian migrants first entered the Western Hemisphere and the dates of separation between various New World groups.

Detailed metrical studies of human skulls and studies of discrete cranial traits have been used to illuminate the relationships of living human groups, as well as previously unsuspected affinities between living and historic groups. Our current efforts with the Blackfeet of Montana demonstrate how this kind of work can assist native people in dealing with the issues of reburial and repatriation.

In 1986, the Blackfeet inquired about remains in our collection that may be ancestrally related to their tribe. Research into the documentation associated with the collection revealed that 15 crania are of Blackfeet origin and, furthermore, were collected from the Blackfeet Agency in 1892 in an inappropriate manner. During a meeting with Blackfeet officials in February 1987, they expressed their interest in studies that would verify that the remains were, indeed, Blackfeet and, if so, in having them returned to the reservation for burial with a suitable monument. Their insistence on verification was to ensure that only Blackfeet remains were buried. They explained that in 1892 there were open hostilities between themselves and many of their Indian neighbors, and to bury Blackfeet remains next to those of enemies would result in an undesirable mixing of spirits. Plans are now underway for the return of the identified remains, and the Blackfeet anticipate, as do we, that the studies of them can be used to identify Blackfeet remains in other collections.

Our collections of human skeletal remains are also critical to the important medico-legal field of forensic anthropology. Routinely, our physical anthropologists identify for law enforcement officials materials thought to represent skeletonized human remains. Using data gleaned from our collections by scientific research, physical anthropologists determine if the materials are human, how old the person was at death, what sex the individual was, how long ago the person died, with what racial group the person probably identified, the geographic

origin of the remains, the living stature and build of the individual, the post-mortem history of the remains, what diseases or disease treatment the individual had during his or her lifetime, what natural forces acted upon the remains after death (i.e., erosion, sun exposure, rodent and carnivore damage), the nature of foul play that may have been involved, and possibly the individual identification of the remains.

Our collections of American Indian remains are critical to many aspects of this endeavor, especially in documenting population variation in sexual dimorphism and in the aging process, and in the direct estimation of racial affinity. Most of the forensic cases that call upon our expertise turn out to be American Indian in origin, usually represent archeological prehistoric remains that were inadvertently discovered. Early detection that these remains are archeological in origin save law enforcement officials countless hours of time investigating reports of recent missing persons.

Occasionally, skeletal remains of contemporary American Indians are found and identified. In those cases, our collections uniquely provide the data needed to make the identification. As a case in point, the FBI recently brought to us a skeleton submitted by a law enforcement agency in South Dakota. Analysis revealed that the individual was a young adult male who suffered premature arthritic involvement of the spine and joints, and who may have been killed by massive trauma to the head, as recently as a year before discovery. Comparison with

our collections also suggested that the individual probably was an American Indian.

Armed with this information, authorities in South Dakota focused on a missing person from a local reservation that matched the description. Chest x-rays taken of the missing person during life were obtained and compared with those taken of the recovered remains. The comparison revealed an unusual shape of the scapula (shoulder blade) shared by both the missing person and the recovered remains.

To demonstrate the uniqueness of that anatomical feature, our anthropologists studied a large number of scapulae from the American Indian skeletal collections. The study showed that the form of the scapula was, indeed, unique, even among American Indians and, thus, could be used to identify positively the remains as those of the missing person. The research also led to the prosecution and conviction of the assailant.

The human skeletal collections in the Smithsonian's National Museum of Natural History are an irreplaceable resource for scientific research. The Museum is visited by scientists from all over the United States and from other countries as well. Their contributions to knowledge, together with those of Smithsonian scientists, have produced an impressive record that is reflected in hundreds of research publications founded on the collections.

The questions asked and the research strategies used to explore these issues are varied and often multifaceted. Their resolution depends on access to large, well-documented skeletal

collections representing diverse populations in order to develop the kinds of quantitative and statistical studies that are the basis of modern scientific investigation. Many questions are addressed in terms of frequency of occurrence and variability within and between populations. Although isolated examples also may provide interesting and unique data, systematic and comprehensive study of population biology requires adequate numbers in order to accurately describe population characteristics, especially as partitioned by age, sex, and other relevant demographic or socio-economic variables.

Past accomplishments make it all the more essential that these samples of earlier populations be preserved for future analysis, just as unique primary documents are preserved in archives for future readers. Like archival holdings, skeletal collections are a record of the past, and as such must be preserved for future investigators. Information remains to be extracted from these samples as scientific understanding and methods advance.

Techniques are now being developed, for example, that allow more critical evaluation of the relationships between diet and disease through studies which involve bone and tooth compositional analyses for trace element levels and stable isotope ratios. Although it is now possible to assess nutritional dependence on particular dietary items in prehistoric populations through analytical chemistry, the first publication on this topic appeared as recently as 1973. These studies provide important historical information, but also have the wider

implications for biomedical research which contributes significantly to our understanding of bone growth and metabolism. Anatomical and physiological issues are complex, and must be viewed both within and between populations having different genetic and environmental backgrounds.

The latest advances in this dynamic field reveal that under some circumstances it is now possible to extract immunoglobulins (proteins that act as antibodies) from bone. The future possibilities suggested by these capabilities cannot be fully appreciated or imagined at this time, even by today's most productive investigators.

Let me summarize this discussion of Title II by saying that prehistoric populations left little evidence of their times with which to educate us. Nonetheless, careful study of their skeletons offers insight into and understanding of them and those times, as well as of ourselves and the times in which we live, that are not available from other sources. To suggest, as sweepingly as Title II does, that these remains should cease in that offering is inconsistent with the Smithsonian's historic mandate "for the increase and diffusion and knowledge" and with the precepts of modern scientific inquiry. An additional difficulty is that the bill fails to take into account the full extent of cultural diversity and individual identity among contemporary Indian tribes. It is merely taken for granted that the Institution, in consultation with Indian tribes, somehow will

be able to develop an inter-tribal, ecumenical, archetypal burial ceremony that will have general support.

Having expressed these serious reservations, I should re-emphasize that the Smithsonian does not in any sense deprecate or deny the sensitivity that many Indian people feel with regard to its policies on skeletal collections. We shall continue to meet with those who are dissatisfied with the position taken here, not only to resolve individual claims but, through the accumulating lessons that these provide, to scrutinize and perhaps reconsider its more general features.

In conclusion, Mr. Chairman, we are well aware of the wide range of approaches to the issues associated with the collection of the Museum of the American Indian, Heye Foundation, and with our collection of human skeletal remains. It seems highly unlikely that any single statement of policy or enactment of legislation can, or, indeed, should, address or resolve all of them. Nonetheless, you may be certain of our willingness to participate, as we already are doing in a number of instances, in efforts to determine and, insofar as it is possible to do so, to accommodate public policy interests.

Mr. Chairman, I shall be glad to respond to any questions that you and other members of the committees may have.

STATEMENT OF

MRS. WILMOT H. KIDD

CHAIRMAN, BOARD OF TRUSTEES,
MUSEUM OF THE AMERICAN INDIAN
HEYE FOUNDATION

HEARING ON S.1722,
THE NATIONAL INDIAN MUSEUM ACT
AND S.1723, THE AMERICAN INDIAN
REGIONAL MUSEUM ACT

BEFORE THE SELECT COMMITTEE
ON INDIAN AFFAIRS AND THE RULES
AND ADMINISTRATION COMMITTEE OF THE
UNITED STATES SENATE

NOVEMBER 12, 1987
WASHINGTON, D.C.

MUSEUM OF THE AMERICAN INDIAN
HEYE FOUNDATION

As Chairman of the Board of the Museum of the American Indian, Heye Foundation, I am most grateful to have this opportunity to set before you the plight and the glory of the Museum of the American Indian and to express our support for the solution offered by Senator Inouye's bill. The Museum of the American Indian contains, unbelievably, close to one million objects of cultural, artistic, archaeological and historic significance in an assemblage which can never be duplicated. This remarkable collection desperately needs a new home. The Museum's inconvenient and outdated facilities contain only one quarter of the space needed to adequately conserve, display and study this collection -- only one quarter of the space needed. A parallel to this would be attempting to squeeze a size 10 foot into a size 2 1/2 shoe. It can hardly even be accomplished.

But why should the plight of this one Museum be your concern with all the weighty problems of this nation and the world set before you? The answer is that this Museum holds in trust not just another fine collection, but a unique, priceless, unparalleled collection which embodies and exemplifies the entire history and cultural heritage of great peoples - the indigenous peoples of this hemisphere, the Native Americans of North, South and Central America.

Thus, this collection is not only a national treasure but also an international one. Hundreds of Indian

nations now within the borders of the United States are represented in depth as well as the Indian peoples of the rest of this hemisphere -- the Arctic Eskimos, the Incas, the Aztecs, the Mayans, the Amazon forest peoples, peoples of the Caribbean, Peru and the extinct tribes of Tierra del Fuego, to name just a few. Further, the collection contains every type of object produced by these fascinating cultures from the ornamental and the ceremonial to the utilitarian. There are numerous objects of exquisite beauty, delicacy and refinement, some of which took a lifetime to create, objects of simple everyday use imbued with elegance and spirit, objects no larger than a small pebble to huge totem poles 5 tons in weight and 40 feet high, objects 9,000 years old to objects of contemporary times.

Thus, a story of tremendous significance unfolds before the beholder, the scholar and Indians themselves. This collection is as significant to Native Americans as the Elgin marbles and the Parthenon are to the Greeks, as the Museum of Chinese History and the Forbidden City are to the Chinese, as the pyramids and their contents are to the Egyptians. That is why it is appropriate that this august body do what it can to ensure that this collection can be properly preserved, adequately researched and widely viewed. This priceless treasure left to the world by George G. Heye can be our window not only to the past but also to the

resent and the future, a bridge to these complex cultures which have never been adequately understood or appreciated, a tool of learning and understanding for people everywhere.

The mandate of the Board of Trustees of this Museum is to ensure that this great collection be properly preserved, displayed and studied not only for the foreseeable future, but into the distant future as well. It is our fiduciary responsibility to search out a proper solution to the plight of this Museum and to find not only an adequate solution but one which maximizes the opportunity of achieving the goals established by the founder of this Museum 81 years ago. It is in this spirit that we appear before you today and it is in this spirit that we support Senator Inouye's proposal.

The Trustees of the Museum believe that the Inouye proposal serves the best interests of the Museum, the people of New York, the nation as a whole, and in so doing the wishes of the founder as well. It offers a desirable solution to the Museum's problems by providing the space and resources so desperately needed. Relocation to the Mall would make the Museum's exquisite collection available for millions of people to see. In addition, the legislation will greatly benefit New York by providing the New York viewing public with a museum facility containing far more exhibition space than now exists in the Museum's present facilities.

Finally, the legislation also represents an opportunity to ensure that the Museum becomes an enduring national institution and a permanent tribute, in the heart of both the nation's capitol and its largest city, to the heritage and living cultures of the Native American people of this nation and hemisphere. Such an amalgamation of interests served and goals accomplished should greatly please us all.

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STATEMENT OF

DR. ROLAND W. FORCE

PRESIDENT AND DIRECTOR
MUSEUM OF THE AMERICAN INDIAN
HEYE FOUNDATION

HEARING ON S.1722,
THE NATIONAL INDIAN MUSEUM ACT
AND S.1723, THE AMERICAN INDIAN
REGIONAL MUSEUM ACT

BEFORE THE SELECT COMMITTEE
ON INDIAN AFFAIRS AND THE RULES
AND ADMINISTRATION COMMITTEE OF THE
UNITED STATES SENATE

NOVEMBER 12, 1987
WASHINGTON, D.C.

MUSEUM OF THE AMERICAN INDIAN
HEYE FOUNDATION

As President and Director of the Museum of the American Indian, I would like to take this opportunity to add a few words to Mrs. Kidd's comments concerning the plight of the Museum and why I believe Senator Inouye's bill offers an attractive solution to the Museum's current problems.

As Mrs. Kidd has described, the collection of the Museum of the American Indian is unmatched in both quality and quantity, boasting the largest and finest assemblage of Native American objects in the world.

But today, this priceless collection is inadequately housed in antiquated and unsuitable facilities. Over the years, the Museum's current facilities and locations have become inadequate. The Museum's present facilities consist of three structures scattered between Upper Manhattan and the Bronx in New York City. These facilities have become inconvenient for public access and unsuitable for operational functioning. Their locations are remote, deterring visitation and discouraging potential contributors from supporting the Museum.

In 1986, fewer than 50,000 people visited the Museum, as compared to the over 3 million people who visited the Metropolitan Museum of Art in New York that same year. By contrast, when the Museum has mounted temporary exhibitions in more prominent facilities in New York and elsewhere,

visitation has been exceptionally high, paralleling that of other major museums. For example, an exhibition at the IBM Gallery of Science and Art in New York City from October through December of 1984 averaged 2,100 visitors a day -- more than 20 times the average daily visitation at the Museum's present public facility. Similarly, a single exhibition, entitled "Star Gods of the Ancient American," was presented from December 1982 to March 1983 at the American Museum of Natural History, from June to September 1983 at the Alder Planetarium in Chicago, and at the Houston Museum of Natural Science from June to September 1984. Devoted to ancient American astronomy, "Star Gods" drew a total of 485,181 visitors.

Although the size of the collection has more than doubled since the Museum's founding in 1916, the available exhibition space remains just about the same as it was sixty years ago. The main exhibition facility contains only 15,000 square feet, permitting the cramped display of less than 1% of its collection. Because of this shortage of space, rare and priceless artifacts are crowded into display cases, posing a potential hazard to the welfare of the collection. Studies show that the Museum needs at least six times more exhibition space that it currently has. Storage space is also inadequate. One million artifacts are housed in cramped, outdated facilities. They are stored in only 20,000 square

feet of space -- stacked on crowded shelves 18-20 feet high, twice as high as standard storage space.

Because of this overcrowding, specimens are of necessity folded and compressed into drawers, subjecting them to abrasion and damage. Ancient artifacts, objects with unique and extremely delicate embellishment and works constructed of fragile materials, require special storage facilities.

Since 1977, the Trustees have carried out several important conservation projects, including the installation of climate-control equipment at its research branch in 1982. But more needs to be done in the area of improved climatization and preservation in order to properly conserve the priceless collection.

In addition to collection overcrowding, work areas and staff offices are undersized. And because the Museum's current financial base will only support an outreach program of very small size, service to the public is greatly restricted. In short, the entire operation of the Museum suffers from serious congestion; the space available in the Museum's facilities can simply no longer adequately serve the Museum's collections.

Relocation to the Mall under the Inouye bill would solve these problems and satisfy the Museum's needs. Greatly expanded space in world-class facilities would provide both

for safe storage of the Museum's artifacts, photographs and publications, and for their enjoyment and use by visitors and scholars. In this new setting, the Museum would finally be able to publicly exhibit in earnest its enormous collection -- rather than 1% of it. The heightened visibility of a thriving museum on the Mall would excite untapped interest in the Museum and its collection, creating a dramatic leap in attendance, from a few thousand visitors per year to several million.

The Inouye proposal also holds the exciting promise of vastly expanding the research and educational reach of the Museum's programs by heightening public visibility of and access to the collection.

In addition, the opportunity for regional exhibition facilities will enable other parts of the nation to enjoy and study the Museum's remarkable collection. Traveling exhibitions that will tour the country will include special shows designed for Indian tribal museums and cultural centers.

The collections of the Museum are a national treasure which today are in jeopardy as a result of inadequate exhibition and storage facilities, poor location and insufficient public visibility. By offering facilities with sufficient space to properly display, store, conserve and study the collection, Senator Inouye's bill represents a

viable solution to our very real problems, and would assure that the Museum's unparalleled collection would be secure for the nation for years to come.

STATEMENT OF

MR. EDWARD N. COSTIKYAN

OUTSIDE LEGAL COUNSEL,
MUSEUM OF THE AMERICAN INDIAN
HEYE FOUNDATION

HEARING ON S.1722,
THE NATIONAL INDIAN MUSEUM ACT
AND S.1723, THE AMERICAN INDIAN
REGIONAL MUSEUM ACT

BEFORE THE SELECT COMMITTEE
ON INDIAN AFFAIRS AND THE RULES
AND ADMINISTRATION COMMITTEE OF THE
UNITED STATES SENATE

NOVEMBER 12, 1987
WASHINGTON, D.C.

MUSEUM OF THE AMERICAN INDIAN
HEYE FOUNDATION

As outside legal counsel to The Museum of the American Indian, Heye Foundation, I welcome this opportunity to provide you with a report on the legal issues surrounding Senator Inouye's proposal and the Museum's efforts to find a new home.

The Museum of the American Indian was founded by George Gustav Heye in 1916 under a Trust Indenture which established the Museum and set forth its governing nature, objects, and purposes. Under the Trust, the stated "nature" of the Museum is the "collection, preservation, study and exhibition of all things connected with the anthropology of the aboriginal people of North, South and Central Americas, and containing objects of artistic, historic, literary and scientific interest." The "objects" of the Museum are the "Advancement of the study of anthropology, particularly in connection with that of the aboriginal people of the Americas and the study of their language, literature, history, art and life." And the Museum's stated "purposes" are to "to collect . . . hold and dispose of, anthropological collections and objects of scientific or educational interest relating to the science or study of anthropology . . . by . . . providing means for encouraging and carrying on the before-mentioned work within the State of New York."

The Museum's Trust Indenture and the location of the future home of the Museum first became contested legal issues in October of 1985, when the Museum's Trustees filed a petition and commenced a lawsuit in the New York State Supreme Court seeking instructions as to their rights or obligations to accept a $70 million offer from the well-known philanthropist, H. Ross Perot, to relocate the Museum's primary facilities to the State of Texas. The Trustees initiated the proceeding only after conducting an exhaustive but unsuccessful eight year long search for a suitable new home within the State of New York. The Trustees determined that relocation was essential to the Museum's satisfying the dominant objectives of the Trust, since the Museum's facilities had become wholly inadequate, and no suitable alternative site in New York was available.

We have read in the press that certain officials believe that the Museum cannot, under any circumstances, leave the State. This is simply not so. It has always been our opinion that the Museum has the right to move its main facilities outside of New York in the event that it can no longer carry out its primary objectives within the State. Other similarly situated charities have been permitted to leave the State, such as Snug Harbor in Staten Island and our former neighbor, the American Geographical Society.

Under New York law, when a valuable resource within a charitable trust languishes at its original locale, the charity may relocate out of the State, even if the trust requires providing a "means" in New York. The law provides a remedy by permitting relocation to a site where the charity will be able to fulfill the principal trust obligations. In our case, this means that the Museum must move to a location where its collection will be displayed, conserved, maintained and studied in a manner that will do it justice. The legal authority for relocating outside of New York is Section 8-1.1 of The New York Estates, Powers, and Trusts Law, which provides:

> Whenever it appears to such court that circumstances have so changed since the execution of an instrument making a disposition for [charitable] purposes as to render impracticable or impossible literal compliance with the terms of such disposition, the court may, on application of the trustee . . . make an order or decree directing that such disposition be administered and applied in such manner as in the judgment of the court will most affectively accomplish its general purposes, free from any specific restriction, limitation or direction contained therein . . .

The New York Supreme Court paved the way for the Museum leaving the State on July 9, 1986, when Justice Stecher rejected the New York State Attorney General's motion to dismiss the Museum's lawsuit, and ruled that he would permit relocation if the Museum proves it cannot fulfill the trust obligations while remaining exclusively in New York. The Court recognized that there is

no "substantial dispute that the present physical sites of the Museum are inadequate for the Museum's purposes" and that the Museum "cannot remain in its present situation and survive." The Court therefore concluded that "[i]t must be as obvious to the litigants as it is to the Court that it was not the intention of the [founder of the Museum] to allow this museum to perish . . . rather than be removed to another state."

The Museum's lawsuit changed gears in the spring of this year, when the Perot offer to move the Museum to Texas was withdrawn. After Perot, the Museum intensified its efforts to secure the U.S. Custom House in Lower Manhattan as a new home; but for a variety of political reasons those efforts were to no avail.

At that juncture, the Smithsonian and Senator Inouye entered the picture, and expressed great interest in relocating the Museum to the Mall. Because the Custom House option seemed to have hit a political dead end, discussions of a Smithsonian affiliation were pursued, leading to the Museum's approval of the affiliation in principle, and, finally, to the introduction of the Inouye bill.

Meanwhile, the lawsuit continued. Because the Perot offer was gone, the Attorney General moved to dismiss the Museum's petition for instructions as to its right to go to Texas. The Museum opposed this motion, and sought to

update its pleading by setting forth the facts relating to the Inouye proposal, and requesting permission to enter into the proposed affiliation with the Smithsonian. Although this matter is still pending, at a July hearing Justice Stecher made it clear that he had no "authority to walk away from [the case]." The Court construed its powers under New York trust law very broadly:

> [t]he question in my mind as to what affirmative action to take, other than this statute that we are dealing with here, at least as far as my duties are concerned, is rather a unique kind of statute because the concept of the judge in a dispute is usually that of the referee, the arbiter, the one who waits for the arguments to be presented, the evidence to be presented and makes or assists in making a determination. This is a different kind of statute, it imposes a more substantial obligation . . . I am inclined to believe that I have a duty under this particular statute to do more than just merely sit back and let this thing go by the boards . . .

In my judgment, the Inouye proposal should receive favorable judicial approval by the New York State Supreme Court. The Court has already recognized that the Museum's present facilities are woefully inadequate. And despite the Museum's ardent efforts to remain exclusively in New York, it remains in urgent need of a new home and is still without a viable location in the State. As Justice Stecher has indicated, under these circumstances the Court has a "substantial obligation" to help the Museum solve its current problems.

The Inouye proposal now represents a real solution to the Museum's plight. By retaining a significant museum facility in New York, at the U.S. Custom House or elsewhere, and relocating the Museum's core facilities to the Mall, the legislation would, in my opinion, satisfy the trust obligations, provide for the continued existence and integrity of the Museum, assure facilities of sufficient size, and permit the ongoing operation of a museum within New York. In fact, the Inouye proposal, with a New York Museum, might very well satisfy the Trust Indenture's requirement of providing a "means" within New York, and not require judicial approval. Nevertheless, as soon as it becomes reasonably clear what S.1722 and S.1723 will actually provide, it is our intention to return to Court to seek judicial approval to enter into the proposed affiliation with the Smithsonian.

I should note here that although we support Senator Bingaman's efforts to create a national system of regional facilities to display the Museum's art and artifacts, we believe that the creation of regional advisory councils, as contemplated in Senator Bingaman's proposed legislation, poses serious legal problems and should not be included in the final legislation.

Over the past ten years, the Trustees of the Museum have embarked upon a long and arduous effort to revitalize the Museum and find it a new home. They have kept the Museum

alive, climatized its collection facility, and improved its outreach programs. Despite the lack of public support, the Trustees have managed to keep the Museum fiscally viable. But time is now of the essence in resolving the Museum's current problems; the longer the collection languishes, the more difficult it becomes to preserve. Under these circumstances, we welcome the Inouye proposal and we hope that the Congress of the United States can work out a satisfactory compromise to ensure that the Museum of the American Indian can carry out its important mission for years to come as an enduring national institution.

CHIEF WASHAKIE

SHOSHONE & ARAPAHOE TRIBES
BOX 217
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CHIEF BLACK COAL

STATEMENT OF DENNIS SUN RHODES; ARAPAHOE BUSINESS COUNCILMAN - ELECTED OFFICIAL OF THE NORTHERN ARAPAHOE TRIBE - WIND RIVER RESERVATION, WYOMING - PROFESSIONALLY EDUCATED AND TRAINED AS AN ARCHITECT. CULTURAL ARCHITECTURAL DESIGNER FOR THE NATIVE AMERICAN CENTER FOR THE LIVING ARTS, INC. (65,000 sq. ft. facility - 8 million construction budget); ARAPAHOE CULTURAL MUSEUM (renovation of a Nationally Registered Historic building ($50,000 construction budget), Ethete, Wyoming) AND DESIGN COMPETITION WINNER FOR THE NATIVE AMERICAN LEARNING CENTER IN 1976 WHICH WAS SPONSORED BY THE SMITHSONIAN INSTITUTION (8,000 sq. ft. facility), WASHINGTON, D. C. MALL: BEFORE THE HEARING OF THE U.S. SENATE SELECT COMMITTEE ON INDIAN AFFAIRS ON S.1722 AND S.1723 - NATIONAL MUSEUM OF THE AMERICAN INDIAN AND REGIONAL EXHIBITION FACILITIES.

November 18, 1987

Good Afternoon Mr. Chairman and members of the Committee and Staff. I am pleased to be here today to present views of the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyoming, as well as personal views on S.1722 and S.1723. S.1722 seeks to establish a NATIONAL MUSEUM OF THE AMERICAN INDIAN and its companion S.1723 will authorize, as part of building the National Museum of the American Indian, to be located on the Washington D.C. Mall and the establishment of Regional Exhibition Facilities at various points across America. The primary purpose of the Regional Exhibition Facilities is to disseminate educational information to Indian and Non-Indian alike on the "significant historical, artistic and cultural achievements of the Indian people of the region in which such a facility is established."

The realizations of these two proposed legislative acts will provide to the American Indian, a monumental service. Not only will there finally be a physical entity constructed on the grounds of the Nations Capital dedicated to the once past, present and future achievements of the American Indian, there will be regional exhibition facilities where young Indian people can go to learn about his heritage and allow for the education of young non-Indians as to the outstanding achievements of the various Indian Nations across America. The Shoshone and Arapahoe Tribes, without a doubt, endorse these two legislative acts for their grand and sound purposes and intents. I have followed these stately and well meaning concepts proposed by S.1722 and S.1723 for some time. These concepts were discussed by various Indian leaders and officials of the Smithsonian Institution in the Spring and Summer of 1976 during the construction and use of the Native American Learning Center. I endorsed those impressive ideas at that time and I did hope that these concepts would come to a reality in my life time. That reality will soon take place if the powers will be in concurrence with S.1722 and S.1723.

The American Indian has a phenomenal opportunity under the properly guided creative design scenario to manufacture a physical American Indian Cultural edifice in Architecture which will show the various Nations of the world the Grandeur of the Indian Tribes across America.

This special Architecture is possible for two main reasons:

1. The Design Talent is available from the Indian Artisans and Architects whom are now educated and trained to handle the Design Challenge offered by the National Museum of the American Indian and the Regional Exhibition Facilities.

2. The appropriated congressional construction budgets will be more than adequate to design and build something special, especially if they are within architect "rumored" amounts appropriated for the recent new buildings and new additions to the government facilities on the Washington, D.C. Mall.

Personally, I would be very happy to be part of the Design Team that tackles the challenge to create an AmerIndian Architecture for the Washington D.C. based National Museum of the American Indian and the Regional Exhibition Facilities across America.

This concludes my prepared Statement. I will be happy to answer any questions the Committee may have.

STATEMENT OF ROBERT H. SIMMONS, FREE-LANCE WRITER AND JOURNALIST, OF ARLINGTON, VIRGINIA, TO JOINT HEARING ON PROPOSED NATIONAL MUSEUM OF THE AMERICAN INDIAN BY SENATE COMMITTEE ON RULES AND ADMINISTRATION AND SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, UNITED STATES CONGRESS, WASHINGTON, D.C., NOV. 18, 1987

Summary: The integrity of the National Mall would be damaged by any large construction on the site recommended by the Smithsonian Institution for its proposed National Museum of the American Indian; the National Mall is a National Treasure; present open spaces need preservation; another site should be found, e.g., Potomac Park.

The Smithsonian Institution proposes construction of "a building at least 400,000 square feet in size" on a site at the eastern end of the National Mall "bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia" to house a proposed "National Museum of the American Indian."

This proposal is apparently intended as a lure to the trustees of the Heye Foundation of New York City to turn over to the Smithsonian Institution its large collection of Indian art objects and artifacts and related library of 40,000 volumes, which are now housed in New York City. The proposal is premature.

Although Public Law 94-74 reserved that National Park Service site "for the future public uses of the Smithsonian Institution," it does not provide or suggest carte blanche for large-scale construction. Indeed, in 1975, notice was made that any construction on that site would be minimal -- in the nature of a possible garden-type development.

An enlightened program for the National Mall demands that the open space at its eastern end, which includes the proposed new museam site, be kept free of any new construction -- especially the construction of such an overwhelming building as that proposed in S-1722 under consideration. The National Mall is a National Treasure of landscape architecture worthy of protection by Congress.

The following facts should be considered:

1. A visual buffer zone of open space is necessary between the present huge buildings along the National Mall and the huge buildings on Capitol Hill and other nearby sites.

2. One more huge building would occupy too much of this needed open space, diminishing the use and beauty of the open space and encroaching upon the Capitol building itself and its special environment.

3. A building on the proposed site would become one of a pair with the East Building of the National Gallery of Art, located on the site opposite, across the Mall to the north. As with a pair of urns on gate posts, one will take from the other. The East Building, designed by I.M. Pei, is accepted as one of this century's major works of architecture. The new building would only diminish the East Building's artistic values in the attempt to usurp its honors.

4. Smithsonian officials predict that the proposed new museum would have 8-million to 10-million visitors per year. The nearby National Gallery of Art and National Air and Space Museum already are the most heavily attended museums in the world. One more such attraction in that immediate vicinity would create an impossible traffic and parking situation and provide one more stressful pressure on the pleasant use of the National Mall and its facilities.

5. Another site should be found for the proposed National Museum of the American Indian. There are many in the Washington area. Note, for example, the feasibility of Potomac Park, owned by the National Park Service and occupied by little more than a golf course. That kind of space would be appropriate for a museum devoted to the artistic achievements of the American Indian -- who lived in and gloried in the open spaces of this country before the encroachment of our huge modern structures.

SOCIETY FOR AMERICAN ARCHAEOLOGY
Office of Government Relations
2000 P Street, N.W.
Suite 305
Washington, DC 20036

Statement of the Society for American Archaeology
Before the Senate Select Committee on Indian Affairs
and
the Senate Committee on Rules and Administration

November 18, 1987

Mr. Chairman, the Society for American Archaeology is pleased to have been invited today to present this testimony today on S. 1722 and S. 1723.

S. 1722, the National American Indian Museum and Memorial Act

I. MUSEUM

The National American Indian Museum and Memorial Act would relocate the renowned Museum of the American Indian, Heye Foundation in Washington as part of the Smithsonian Institution. The Society for American Archaeology supports this proposal. Our central concern is less with the location of the collection than with the protection of and access to the materials. The Heye Foundation contains one of the foremost collections of Native American ethnographic and archaeological materials. The present facility in New York is unfortunately insufficient in curation, exhibit, research and security procedures needed to protect such valuable and irreplaceable artifacts. S. 1722 provides an excellent alternative.

The Society feels that relocation to the Smithsonian and construction of a new facility on the National Mall would be an excellent way to acknowledge the importance of the culture of Native Americans to our joint history. The Smithsonian Institution is our nation's premier museum institution. Placement on the Mall of a museum honoring Native Americans would be one way to provide appropriate recognition. The collections of the Smithsonian Institution would provide a fitting compliment to the OHeye Foundation museum.

The result would be one of the most comprehensive opportunities to interpret and understand the history of the New World, from earliest arrival of prehistoric people to modern indigenous populations. The question is, therefore, more than just where to house the Heye Foundation collection; more broadly, it is how to best preserve, present and understand at least 10,000 years of unique culture history. If the decision is made to retain the Museum of the American Indian, Heye Foundation in New York, then the Society must express its deep concern for improvement of curation and research opportunity.

II. MEMORIAL

S. 1722 makes provisions for a memorial to honor and commemorate Native Americans. The museum would provide a place for the disposition of some skeletal remains now in the Smithsonian Institution. The Society recognizes the scientific importance of a large collection of skeletal materials which can provide vital information relevant to many problems. Skeletal remains allow various kinds of scientists to study human adaptation, human biology, disease history including paleopathology, human demography, nutritional and health problems. The range of experts and range of discoveries associated with human skeletal remains is large and well described by Dr. Robert McCormick Adams, Secretary of the Smithsonain Institution, in his statement of November 12 before these Committees.

The Society recognizes both the need for greater public knowledge of the achievements of physical anthropologists and archaeologists when their subject matter is human skeletal material. From our own experiences strong cases can be made for these achievements. One of our own best examples of the important use of human skeletal remains involves a prehistoric skeletal collection from Kansas of over 500 individuals which was used to establish the degree of chemical absorption in life that provides a baseline measure of subsequent pollution absorption in modern times. Since the measures of carcinogens and other harmful materials are in their infancy, historical measures are central and human remains are very significant. Therefore, there is every reason to be careful in appraising the uses and disposition of our established museum collections.

We agree with the Smithsonian Institution's approach to dealing with human remains which includes identification of kin and return of appropriate remains. The major concern is that there be access to these collections for future scientific study. If the proposed memorial is symbolic, containing only those human remains with no scientific value, then the Society would not oppose it.

Lastly, we would like to point out an inconsistency in the language of S. 1722. At the beginning, in section 102 (11)(A), reference is made to materials not suitable for scientific inquiry. Title It makes no reference to scientific study of the remains.

S. 1723, the American Indian Regional Museum Act

The American Indian Regional Museum Act, S. 1723, offers an innovative and exciting opportunity to deal with many of the problems associated with museum collections, curation, and exhibition. The bill would provide a way to present Native American cultural materials to the people of the United States. It would bring the museum to the people.

This would allow for better public involvement, appreciation, enjoyment, and involvement in the unique history of the indigenous populations of North America. The Society for American Archaeology supports public outreach and education, training and interpretation -- which are all important elements in S. 1723.

One aspect of S. 1723 which the Society applauds is the opportunity to combine the existing Native American collections of the Smithsonian Institution with the extraordinary ethnological collections of the Heye Foundation. As discussed above, the compliment of two unique collections offers an opportunity to present a more complete picture to the residents of the United States of Native American life.

S. 1723 would allow for a partnership between the Smithsonian Institution, state, local, tribal and university museums. Destruction, damage and theft of archaeological and ethnological materials is rapidly increasing. S. 1723, through its public participation and appreciation elements, will help address these problems.

The Society has several recommendations concerning S. 1723. First, there is the obvious opportunity for establishing a training program for Native Americans in museum curation and collections management. There is an opportunity for scholarly research into collections which would not otherwise be available to scholars and students not fortunate enough to be near Washington or New York. The Society feels that there is a strong need for research grants, scholarships and training geared specifically to these collections. The Society does not take a stand on the need for new museum buildings, but strongly agrees with an effort to cooperate with existing museums to host exhibits and to act as staging areas for traveling exhibits.

The Society feels that S. 1723 is farsighted and attempts to address a problem which has existed for decades. The Society for American Archaeology supports S. 1723.

Thank you for this opportunity to testify.

CHIEF WASHAKIE

SHOSHONE & ARAPAHOE TRIBES
BOX 217
FORT WASHAKIE, WYOMING 82514

November 10, 1987

CHIEF BLACK COAL

United States Senate
Attention: Senator Daniel K. Inouye, Chairman
Select Committee on Indian Affairs
Washington, D.C. 20510-6450

RE: Resolution of Support for Bills S.1722 and S.1723

Dear Sirs:

It is with great pleasure that we submit the attached resolution of support for Bills S.1722 and S.1723 and related testimony. These two bills are of vital importance to all Indian Tribes across the United States.

This proposed legislation proposed by Bills S.1722 and S.1723 come at time when Indian Tribes are facing the rapid destruction of their respective culture by the onslaught of contemporary pressures. We need help to establish our own museums and tribal commission to preserve our languages, customs, and traditional and contemporary art forms.

The Wind River Tribes are most willing to work with the Select Committee on Indian Affairs and by all means continue to invite us to testify on the various bills to help the "Indian Cause". We wish to compliment the staff for its research work to come up with the appropriate legislation that is right in line to solve the many problems facing Indian Tribes across America.

Sincerely,

John Washakie, Chairman
Shoshone Business Council

Gary Collins, Chairman
Arapahoe Business Council

Attachment

CHIEF WASHAKIE

RESOLUTION
OF THE
SHOSHONE AND ARAPAHOE TRIBES
WIND RIVER INDIAN RESERVATION
FORT WASHAKIE, WYOMING 82514

CHIEF BLACK COAL

RESOLUTION NO. 6099

WHEREAS, the Shoshone and Arapahoe Business Councils are the duly elected officials of the Shoshone and Arapahoe Tribes and thus are empowered to conduct the business affairs of the Wind River Reservation.

WHEREAS, the Shoshone and Arapahoe Tribes want to preserve their respective languages, cultural values, traditional arts/crafts and contemporary visual arts by all means possible.

WHEREAS, the Shoshone and Arapahoe Tribes want to support any activities that will promote the Tribe's respective languages, cultural values, traditional arts/crafts and contemporary visual arts.

NOW, THEREFORE BE IT RESOLVED, the Shoshone and Arapahoe Tribes want to propagate their respective languages, cultural values, traditional customs, traditional arts/crafts and contemporary visual arts by supporting efforts that offer solutions that allow growth to take place, such as historic, visual and performing arts facilities, public advertisements, scholarly publications, and other mass media methods and events.

BE IT FURTHER RESOLVED, the Shoshone and Arapahoe Tribes are in support and recommend the passage of the recently introduced legislative Bills S.1722 and S.1723 because the purpose and intent of these bills is to preserve, promote and propagate the respective Tribe's languages, cultural values, traditional arts/crafts and contemporary visual arts across the United States of America.

CERTIFICATION

WE THE UNDERSIGNED, as the Chairman of the Shoshone Business Council and the Chairman of the Arapahoe Business Council hereby certify that in a meeting of Joint Session that the Shoshone Business Council is composed of six (6) members and the Arapahoe Business Council is composed of six (6) members of whom five (5) members of the Shoshone Tribe and five (5) members of the Arapahoe Tribe, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held this 16th day of September, 1987, that the foregoing resolution was adopted by the affirmative vote of four (4) members of the Shoshone Tribe, five (5) members of the Arapahoe Tribe, and Chairman not voting; and the resolution has not been rescinded or amended in any way.

RESOLUTION

SHOSHONE & ARAPAHOE TRIBES

RESOLUTION NO. 6099

PAGE NO. Two (2)

Done at Fort Washakie, Wyoming this 16th day of September, 1987.

John R Washakie
Chairman, Shoshone Business Council

Chairman, Arapahoe Business Council

ATTEST:

Julia F Whiteman
Joint Tribal Secretary

National Museum of Natural History
Room 336
SMITHSONIAN INSTITUTION
Washington, D.C. 20560
U.S.A.

November 9, 1987

Senator Daniel K. Inouye
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510-6450

Dear Mr. Chairman;

Thank you so much for your kind letter of October 23, 1987, with reference to the National American Indian Museum Act (S. 1722) and the corollary bill, S. 1723. I was delighted to receive this information, and have asked the Smithsonian Undersecretary to send me copies of the bills, as well as the draft letter to the Committee from my successor, Secretary Adams.

In my capacity as the retired Secretary of the Institution, I am happy to remind you, Mr. Chairman, of facts that you undoubtedly are aware of. For example, in the 1970s, there was considerable interest expressed in the establishment of some close link between the Heye Foundation and the Smithsonian. The leaders of this effort to explore the possibilities of a union consisted of Vice President Nelson Rockefeller, then a member of the Board of Regents, Congressman Barber Conable (N.Y.) and Congressman Sidney Yates, Chairman of our Appropriations Subcommittee of the Smithsonian. Mr. Yates made a visit to the Heye Foundation headquarters and a number of the Regents accompanied him at that time, as well as our then Assistant Secretary, Mr. Charles Blitzer. (Should the Committee wish for further background on these affairs, I would suggest that Mr. Blitzer, currently Director of the National Humanities Center in Research Triangle Park, North Carolina, could provide some interesting recollections).

The substance of these deliberations, at that stage, was unclear for many reasons of which the Committee must be aware. The time was evidently not ripe for a discussion of a potential union. This is not to say that the Smithsonian indeed has ever lost interest in the subject, and I am delighted to note that this interest has been re-awakened recently.

At that time, a strong impetus existed extra-legally, for indeed the legal premise was evident, that the Foundation terms specified the establishment of the Museum in New York State, but there was a primary sentiment for moving the Museum into a more felicitous and accessible setting, such as the Custom House in lower Manhattan. All of this, I suppose, is still germane today, and I assume it would definitely be an aspect of the plan to maintain a presence in New York City.

Parallel to these deliberations, the development of the new Smithsonian Center for Asian, Middle Eastern and African cultures has proceeded apace. As the Committee will know, this complex of collections and activities was opened in September, 1987. I note, in the letter to the Committee of Mr. Adams, he refers to a matter which seems to me central to the whole issue of the Smithsonian's establishment of a Museum of the American Indians or Museum of the Americas, as cited as a suggestion on page two of his letter, paragraph two. The hope has been expressed in recent years in the Smithsonian itself, that the foundation of a center for Asian, Middle Eastern and African cultures now opened could be followed, if successfully undertaken, by the creating, on the remaining Smithsonian space of the Mall, of a Center for the Americas. It is self-evident that Indians do not exist only in the United States. The Indians of North and South America are intimately connected by ancestry, cultural patterns, methods of ingress to this new land and in other ways, including cultural and physical relationships. It is appropriate in this connection that Mr. Adams, in his draft letter, refers to the Report to the Congress of the Christopher Columbus Quincentenary Jubilee Commission, that a Museum of the Americas, one of "three major national initiatives which deserve the highest level of public and private recognition and support" should "provide for a full portrayal of the ethnic and cultural diversity of native American peoples, a thorough presentation of the high civilizations of pre-Columbian eras", throughout the Americas, "and a means of educating the public about the dynamic roles which native American cultures continue to play in the many national societies of the Americas, including our own."

As the Heye Foundation contains important aspects of collections of Indians of the Americas as a whole, in addition to collections of native American cultures of the Indians of the United States, it seems to me to be overall exercising a far broader perspective, to illuminate and study and work with the whole history and cultures of those who came to America in the past 30,000 years, including the paleo-Indians' remains of which are so prominent in Smithsonian and other collections, where they came from, and

how they got here.

In my Annual Report Statement to the Smithsonian and the Regents of 1984, I stated "perhaps in years to come, a similar center for the New World can arise in the quadrilateral space east of the Air and Space Museum which was deeded to us some time ago by the Congress. The statute specified that plans for any structure on that last Mall building site must be approved in advance by Congress. No one need be taken unawares by some vast teeth of Cadmus, springing up overnight to obstruct the western vista from the Capitol towards the panorama of Mall and monuments. This was a wise decision, one in which the Smithsonian concurred, testifying that we had no wish to encumber space with sheer man made mass to obliterate openness, an increasingly precious commodity in our city".

"If the Quadrangle becomes the success we anticipate - novel in theme as well as structure - what a fine example it can serve for the future in our world. It will serve as a model for still another vast cultural history to be told and pondered: the sweep of two continents from the Bering Sea, trodden by the streams of emerging civilizations over the course of some 30,000 years. Cultures have emerged in the flowing over these new worlds, from north to south, from west to east. No similar event can quite so clearly be defined on the rest of the planet; no effort has so far been attempted to describe in time and sequence this all encompassing tidal flow which continues even today in a way whose history is only becoming known and whose future, like the winds of time, cannot be discerned."

Such an ambition is appropriate for the Smithsonian, which deals, in fact, with all the peoples of the world. Such an ambition can obviously include the history of North America and those parts of it which belong to our Nation. The fact that the American Indian needs respect and appropriate historical integration into the stream of cultures of this country, would be greatly enhanced by consideration of the overall impact of Indians on our continents, their arrival from the west, coming to the east by various means, to a large extent across the Bering Straits in periods of changing climatic conditions, and the fundamental building blocks which the Indian stock has provided in the history of these continents themselves. This concept seems to me to be one of grandeur for the Indians. It would perhaps do much to put their past into an appropriate focus. Parenthetically, and as a comment, it seems to me a more dignified and less political approach towards the present day problems, which we all know lie so close to the heart of Indian divisions and divisiveness today. At the same time, the United States' consideration of

these matters would be elevated in scope into a stage of philosophic consideration of our history, novel perhaps, but certainly dignified.

I write at this length to you, as I find myself unable to guarantee to be present at the hearings. As a retired Secretary, I spend much more time on our own property in Connecticut, where we are now administering a farm, which requires day to day supervision. Thus, I cannot guarantee that I would be able to be present under these peculiar personal circumstances. I am sure the Chairman must be aware of the problems of maintaining a property in absentia. This has been a severe time for my wife and myself, and emergencies with livestock and animals may arise at any moment.

With respect and admiration, Mr. Chairman, I salute your splendid initiative, conscious of the trust which you place in the guiding hands of our Institution.

Faithfully yours,

S. Dillon Ripley

S. Dillon Ripley
Secretary Emeritus